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SIR PHEROZESHAH MERWANJI MEHTA

Bombay's leading citizen for more than a generation

EVOLUTION OF
LOCAL SELF-GOVERNMENT
IN BOMBAY

BY

R. P. MASANI

Formerly Municipal Secretary, Deputy Municipal Commissioner and Municipal Commissioner for the City of Bombay

WITH A FOREWORD BY

S. T. SHEPPARD

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To

The Memory

of

Sir Pherozeshah Merwanji Mehta

than whom

no more splendidly endowed citizen

ever laboured as a member

of

The Municipal Corporation of Bombay

for the welfare of the city

and

who, as a leading citizen of Bombay

for more than a generation,

has left behind him

an inspiring example

of

self-sacrificing civic service

unique in the annals of India

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FOREWORD

A GOOD book needs no introduction, but the flattering request that I should write a foreword to this excellent book could scarcely be refused because it means that my friend, Mr. Masani, has recognized in me a fellow-student of the history of Bombay City. That history has for many years been to both of us a source of great and ever increasing interest, and I fully expect that the publication of this book will turn the thoughts of many who have as yet ignored the fascinating story of Bombay to its study and appreciation. Those who have already yielded to the charm of that study will not fail to find Mr. Masani's book of extraordinary interest and to those engaged in the municipal work of Bombay it must prove of lasting value, because it not only traces the evolution of local self-government in the city but shows how some of the most pressing problems of the day have defied all attempts to deal with them.

Bombay, for example, still has a fish-market conducted in the most primitive fashion. Governor Aungier, in many ways the greatest of our Governors, sought to solve this problem with the suggestion that the Court of Directors should send out fishmongers with their families for erecting a company of fishmongers so that better order might be observed. In this and in many other ways Aungier was ahead of his time, and these pages show how the efforts of reformers to deal with such questions as traffic regulations, licensing of liquor shops, gambling, paupers and so on were thwarted by incapacity to carry good intentions into effect. We inherit today the general principles of assessment of property laid down at the end of the eighteenth century and it is from

a ' Rule Ordinance and Regulation ' passed more than a hundred years ago for the good order and civil government of the Island of Bombay that the municipal laws of to-day have really developed. The genius of Indian people for local self-government, which decayed owing to the centralization of Government, has yet to re-assert itself with all its pristine vigour. But the committee system of municipal administration, which some favour to-day, appears to be a throw-back to the tenth century ; and with a little more perseverance India may go back to the ninth century, to those happy days when there was a rule of debate forbidding the persistent obstruction of the proceedings of the assembly and providing that obstructionists should pay a fine for each offence.

I have mentioned but a few of the points on which Mr. Masani has much to say that is both fresh and interesting, merely to indicate the general interest of his subject and the more particular importance of its study to present-day administrators. It would be difficult to affirm that the municipality is wholly alive to the importance of its past history, but it has at least done something to encourage the study of the city's history by providing in the old Bombay rooms at the Victoria and Albert Museum the nucleus of a collection of historical material which may some day prove very valuable. But a good deal more remains to be done and, considering how incomplete is the collection of engravings alone in the old Bombay rooms, the municipality might well do more than it has done. Other objects, however, make stronger claims upon the strained financial resources of the municipality, and the encouragement of historical research is forgotten. I can, however, assert that much could be done with but comparatively little money, for the catalogues of London and other booksellers often point to bargains which should be

greedily seized by an enterprising municipality. And why do not the citizens of Bombay help to make that collection of pictures and maps worthy of their city? They could be of material assistance, but apparently lack the necessary stimulus to make them disgorge such objects of historical interest as they may possess.

Of course the most obvious way of extending interest in the history of Bombay would be for the University of Bombay to do something analogous to the step taken a few years ago by the University of London when, by the enterprise of the London County Council, it appointed its first Reader in the history and records of London. I have often heard it said that the University of Bombay, despite the widespread nature of its many interests, is not in close touch with the life of Bombay. That reproach—unless it means only that the University does not sufficiently touch the wealthy citizens of Bombay for donations—might to some extent be removed if it were to pay particular attention to, and encourage the study of, the city's history. That there is plentiful material to be explored and fresh lines of research to be opened up is clearly shown by Mr. Masani in this book. Anyone who has explored even one aspect or one chapter of Bombay history must have found for himself that attempts to write that history have as yet been little more than a scratching of the surface, and that there is an immense amount of valuable material to be brought to light by those who care to dig all at deeply. But the explorer is confronted with the initial difficulty that he has no guides such as, I suggest, the University might afford. He has an excellent series of finger-posts to history in the Gazetteer by the late Mr. S. M. Edwardes and in the notes for that work by Sir James Campbell. But there is not even a bibliography of Bombay, and no collection of books and pamphlets dealing with the history

of Bombay that can claim to be anything like complete. Recent years have seen the appearance of a number of monographs treating various aspects of that history, and Mr. Masani's book is the latest and most encouraging of those works to those who know how much historical spade-work has yet to be performed before anyone can attempt a history of Bombay City in the wider sense of the term. It is, after all, for Bombay men to elucidate the history of their own city, and Mr. Masani has in doing this followed in the footsteps of some notable pioneers such as da Cunha, Dinsha Wacha and Malabari. I hope I have not appeared to minimize the importance of those or any other writers' books when I have referred to the scantiness of the published history of Bombay: they have splendidly pointed the way to others.

Though another Pherozeshah Mehta may arise to show us what civic pride at its best may be and may achieve, perhaps the time has not yet come when it can be said that Bombay men have as a general rule that affection for and interest in their own city which, for example, Manchester men have in regard to Manchester. But surely that time will come and the University has it in its power, I firmly believe, to bring that time nearer to us. The would-be historian will then find his way made materially easier than it is at present, for he will know where to look for the manuscript records, the books, and the maps and pictures of Bombay which are relevant to his own particular line of research.

S. T. SHEPPARD

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INTRODUCTION

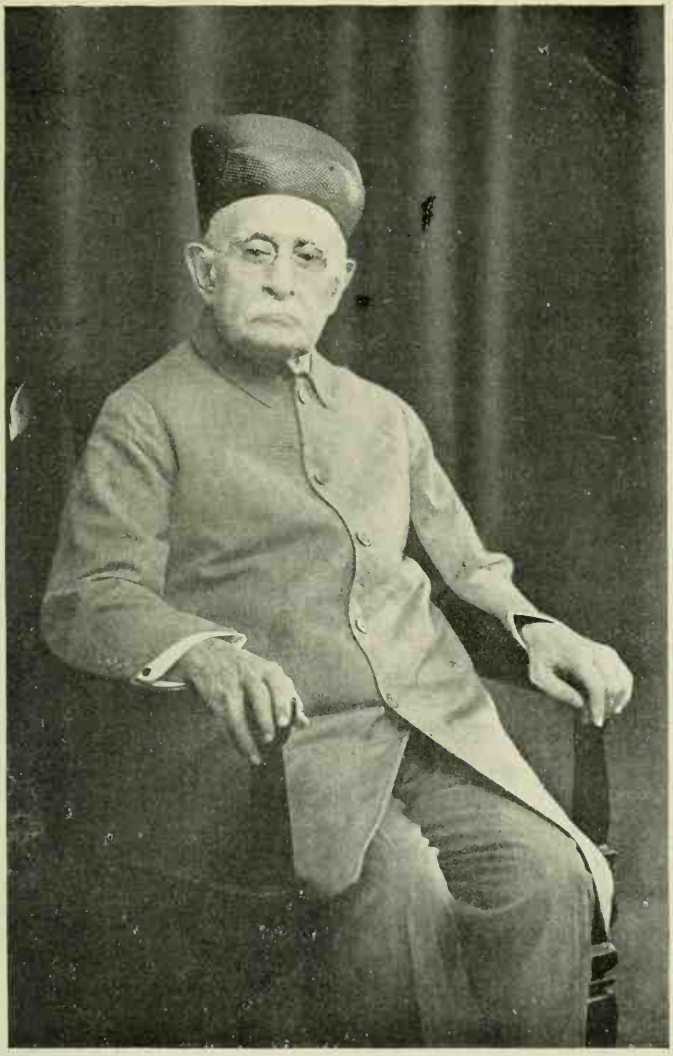
THE constitution of the Municipal Corporation of Bombay was until recently regarded as a model for self-governing institutions in India. The extension of the franchise to hundreds of voters marks the latest phase in its evolution. Act VI of 1922 abolishes the various franchises that existed under the Act of 1888 and substitutes a uniform franchise whereby the occupancy of a building or a portion of a building the rental value of which is not less than Rs. 10 per month qualifies the occupant for registration as a voter. It is said that the Corporation is thus reconstructed on a democratic basis. So long, however, as the system of nominations clings to the constitution, so long as suffrage is not universal, it cannot strictly be called democratic. Nevertheless, this latest enactment is a distinct step forward towards democratizing the Corporation. It has unquestionably led to a growth of interest in the municipal government of the city and given a great impetus to the training of the inert mass of the population in the work of self-government.

It is not enough, however, that the mass of the population should pulsate with new ideals. Without proper guidance, or under the influence of enthusiasts bent on volcanic changes, such an awakening may prove positively harmful. If popular franchise is to be used to the best purpose, the electorates must have a training in citizenship. As long as suffrage is uninformed, a democracy is nothing but an oligarchy controlled by a few who know how to advance the interests of themselves and their satellites. If we want real government by the people for the people, let us see to it that public opinion is well-informed. Let us assist the people in discerning the essence of constitutional law and custom, ancient as well as modern. Let them realize that in an ideal

system of local government every man and woman must take an active interest in the administration of their city, just as they did in the halcyon days of Hindu civilization. Let them not forget the simple lesson of history that a nation can evolve a healthy and vigorous form of government only on the lines prescribed by its own individuality and history, and that therefore the most sensible and reliable means of developing a country is to develop its inhabitants.

Evolution is merely the linking of the past to the present. Between the present and the past lies a vast region of history. One cannot vividly portray the progress made during the interval without an historical background. Without the knowledge of what has preceded the recent reforms it will not be possible for us to grapple intelligently and successfully with the problems of the present, nor can we hope, without a sense of historical development, to find a key to the solution of the problems of the future. The *Bombay City Gazetteer* and Mr. Michael's compilation[1] give us an outline of the history of the Municipal Corporation of Bombay, while Sir Dinsha Wacha gives us a rather discursive but none the less fascinating legislative history of the constitution from the year 1865 down to the reform of 1887.[2] All authorities on the subject begin the story of the constitution with the Charter Act of 1793 (33 Geo. III) when the Governor-General obtained powers to appoint Justices of the Peace for the municipal administration of the presidency towns, also to appoint scavengers in those areas and to levy what would now be called a sanitary rate. The story of local government during the hundred and thirty years of British rule that preceded that enactment and of the system of management of local

[1] *History of the Bombay Municipal Corporation.*
[2] *Bombay Municipal Government.*



THE HON'BLE SIR DINSHA EDULJI WACHA

Bombay's veteran publicist and historian and a stern critic of Municipal Finance.

affairs in pre-British days, still remains to be told. Moreover, the fragmentary account we have of the interesting experiments tried between the years 1793 and 1865 has many lacunae to be filled. I have, therefore, endeavoured in this work to supplement the previous accounts with such additional information as I could glean from published and unpublished records concerning the dawn of municipal government in this city, and to give as complete a narrative as possible of the growth of the constitution from the earliest times, tracing the different phases of its development down to the latest reform embodied in Act VI of 1922. I have at the same time taken the opportunity to incorporate in this work the result of recent researches in the culture-history of India which reveal a remarkable development, in bygone days, of local institutions through which the communal life of the country expressed itself in different spheres, politics and civics included. I trust the information gathered on this point will throw some fresh light on a very old question and dispel the notion that the existing system of local government is altogether foreign to the genius of Indians. I hope it will also enable us to realize that, although during the last sixty years of our city's history, freedom in local government has broadened down from precedent to precedent, although substantial progress has been made during the interval, the ground lost since the disintegration of the ancient bodies has not yet been regained. Alike in respect of the frame-work of the constitution and in respect of our conception of the functions and prerogatives of local government, we are in these days of democratic ideals considerably behind the "great men" of the village communities of hoary antiquity. It may be hoped that a comparative study of local government on the lines indicated will deepen the spirit of civic

brotherhood for which the citizens of Bombay are deservedly noted and quicken their desire to attain the full measure of local autonomy enjoyed by the denizens of towns and villages during the early days. May we also hope that it will induce in them a sense of orderly development which is as essential for the vigour and efficiency of corporate life as for the vitality and utility of individual life?

It now remains for me to acknowledge my indebtedness to those who have helped me in connexion with this work. It was impossible for me single-handed to explore all the old records scattered in different places. My son Minocheher undertook to dive in the ocean of the Secretariat records and I am grateful to him for the care and discernment with which he has culled for me many a pearl of useful information. My thanks are also due to Mr. G. B. Laghate for similarly lightening my task by ransacking the works of reference in the High Court Library and old newspaper files, and to Mr. L. W. Michael for searching the records and books in the India Office and the British Museum for a solution of some conundrums which I referred to him. I am also indebted to Mr. S. M. Edwardes,[1] author of *The Rise of Bombay*, for going through the manuscripts and making several suggestions. To Mr. S. T. Sheppard, Editor of the *Times of India* and author of *Bombay Place Names and Street Names*, than whom I know no more enthusiastic and erudite student of the history of Bombay, I tender my heartfelt thanks for his valued foreword to this book and for many useful suggestions.

21st March, 1925

R. P. MASANI

[1] In the death of this gifted historian, since these lines were written, Bombay has lost a student of local lore whose place it will not be easy to fill.

CHAPTER I

EARLY DAYS OF LOCAL AUTONOMY

LOCAL government enactments ought to be, as their title implies, legislative measures for the management of local affairs suited to the peculiar local conditions of different places. Civic government must evolve from within, cannot merely be imposed from without, and its evolution must proceed on the lines of development consistent with local requirements, sense of civic obligations, habits of co-operation and the traditions of the people. Scarcely any topical traits or typical variations are, however, discernible in the statutes relating to the municipal administration of the different cities of India. They present, indeed, a strong family resemblance, pointing to a common origin, viz., Lord Ripon's memorable resolution of 1882 on local self-government. As the scheme unfolded in that epoch-making resolution was based on English models and as all the later municipal enactments have been framed with the express object of carrying into effect the broad principles enunciated in that resolution, many a critic has been led to conclude that the system of local government in India is an exotic grafted on the patriarchal system of Indian administration. Such an inference, however, ignores alike history and tradition.

Local government in India is no sickly plant transplanted from a foreign nursery. This will, perhaps, appear to be a sweeping statement, hard to reconcile with the fact that until the middle of the nineteenth century there was no such thing in India as local government in the sense in which we now understand it.

The present-day Indian municipality is, no doubt, an institution of only recent growth, not an inheritance from ancestors, but a gift from Government. It is true, nevertheless, that the conception of local self-government is not foreign to the genius of the people. Long before self-governing organizations were evolved in Europe, Indian cities had their village communities and popular assemblies, their *Sabhās* and *Mahāsabhās*, *Parisads* and *Saṅghas*, *Samūhas and Pañchavāras*, for the control and management of local affairs. These were the local parliaments of those simple little republics, self-constituted, self-contained and self-controlled, civic activity in those days knowing no distinction between the functions we now call municipal and those called national.

All over the peninsula, these village assemblies, the oldest units of local self-government, were found to flourish in full vigour. It will be noticed, as we proceed, that the basic principles of these indigenous institutions differed little from the vital elements in the organization of the present-day local bodies. Generations succeeded generations, invasions followed invasions, dynasties overthrew dynasties, the map of India was changed in succession by the invaders from the mountains, Scythians, Turkomans, Pathans, Mughals, Marathas, followed by the peaceful penetrators from the sea, merchants by design and conquerors and rulers by accident, Portuguese, Dutch, French, English, but the village community, that 'indestructible atom from an aggregate of which the most extensive Indian Empire was composed,' remained untouched. Here is a picture of the ancient Hindu township drawn by the pen of Mountstuart Elphinstone :

'Each township conducts its own internal affairs. It levies on

its members the revenue due to the State, and is collectively responsible for the full amount. It manages its own police and is answerable for any property plundered within its limits. It administers justice to its own members as far as punishing small offences and deciding disputes in the first instance. It taxes itself to provide funds for its internal expenses such as the repairs of the walls, and the temple, and the cost of public sacrifices and charities, as well as of some ceremonies and amusements or festivals. It is provided with the requisite officers for conducting these duties and with various others adapted to the wants of the inhabitants, and though entirely subject to the general Government, is in many respects an organized commonwealth complete within itself. This independence and its concomitant privileges, though often violated by the Government, are never denied; they afford some little protection against a tyrannical ruler, and maintain order within their own limits, even when the general Government has been dissolved.'

A township in its simplest form was under a headman. Although he was an officer of the Crown, he was really the representative of the community. He was, so to say, the Lord Mayor of the day and was responsible for the municipal government of the town. These duties he carried out in free consultation with the villagers. 'I have good authority,' says Sir Henry Maine, 'for saying that in those parts of India in which the village community is most perfect and in which there are the clearest signs of an original proprietary equality between all the families composing the group, the authority exercised elsewhere by the headman is lodged with the village council. It is always viewed as a representative body, and not as a body possessing inherent authority, and whatever be its real number, it always bears a name which recalls its ancient constitution of five (*Panch*) persons.' Hence also the dictum *Panch Kahé so kijiyé*, which enjoins submission to the decision of the community. Sir Henry Maine even goes so far as to say that if very general language were employed, the

description of the Teutonic and Scandinavian village communities might actually serve as a delineation of the same institutions in India.

From the authorities cited it will be noticed that this marked feature of Hindu civilization, this systematic development of corporate life and civic co-operation, was not unknown to students of history. Nor were the legislators responsible for the early enactments for the municipal administration of Indian cities unaware of the position occupied by the ancient village assemblies in Indian polity and the part played by them in the culture-history of the country. It was, however, left for Dr. Radhakumud Mookerji to prove by a detailed and scholarly examination of literary and epigraphic evidence that India enjoyed a very elaborate and complete system of local government from the earliest dawn of her history.[1] In his interesting monograph, as also in Mr. Jayaswal's *Hindu Polity*, we clearly discern the democratic and communistic principles which governed the growth of the independent organisms for the management of affairs in the divers spheres of Hindu life, politics and civics included.

'The fact is,' says Dr. Mookerji, 'that India presents the rare and remarkable phenomenon of the state and the society co-existing apart from, and in some degree of independence of, each other, as distinct and separate units or entities, as independent centres of national, popular, and collective life and activity. Both of them were independent organisms with distinct and well-defined structures and functions of their own and laws of growth and evolution. The limits of state-interference were accordingly so defined and fixed as not to encroach upon the sphere of the activities of the social organization. A policy of non-interference was recognized as the ideal policy of the state, the functions of which were ordinarily restricted to 'the irreducible minimum,'

[1] *Local Government in Ancient India.*

viz., the protection of life and property and realization of the revenue for the proper execution of that duty. There was a well-understood delimitation of the respective boundaries of the political and social organization, both of which were co-operating agencies for the promotion of the common weal.' [1]

When the state came to supervene or be superimposed upon these independent organizations and centres of national life, it had to deal with them more or less on terms of equality and to recognize their pre-existing rights by conventions and agreements which operated as charters regulating their mutual relations. A perusal of these conventions shows that the ancient Indian monarchs weighed out powers and prerogatives to the councils of elders with no niggard hand. This enlightened policy of the state secured and sustained the voluntary co-operation of independent units of a common body politic for the management of the varied interests of communal life, administrative, judicial, civic, commercial, and industrial.

For us the most interesting chapter in Dr. Mookerji's book is that dealing with the organizations for discharging the municipal functions of the state. These were termed *Samūhas*[2] in some of the *Smṛtis*. For the proper discharge of the civic functions and the administration of the various interests of municipal life an agreement was drawn up, forming, so to say, the memorandum or articles of association of the local Corporation, the members of which were bound to

[1] An interesting account of these institutions has also been given in the chapter on *Janapada* and *Paura* in Mr. Jayaswal's *Hindu Polity*.

[2] *Samūha* possesses a technical, constitutional significance, viz. 'an organized body.' Brihaspati describes bodies already known to have been assembly-ruled organizations, e.g. *Pugā, gaṇa, saṃgha*, as *Samūhastha vargad* or 'bodies incorporated.' Kātyāyana speaks of separate laws of the *Samūhas* and provides for cases of dispute between the *Samūhas* and its leader.' (*Hindu Polity*, pt. ii.)

discharge their individual obligations by carrying out the manifold works of public utility and communal welfare. Evasion or deliberate violation of the terms of the agreement involved confiscation of property or banishment. One of the injunctions of the Kautilīya *Arthaśāstra* (Book II, chapter I) runs as follows :—

'Whoever stays away from any kind of co-operative construction (*sambhūya Setubhandāt*) shall send his servants and bullocks to carry on his work, shall have a share in the expenditure, but shall have no claim to the profits.'[1]

The conception of municipal activities was not confined to sanitation and water-supply. It embraced problems of public welfare and even spiritual life. The recognized Hindu law-books according to Mr. Jayaswal mention the following non-political functions of the ancient urban corporation (*Paura*) :—

1. Administration of Estates. (*Vāsishtha Dharma Sūtra*, xvi, 20.)

2. Works which contributed to the material strength of the citizens (called *paushtika*).

3. Works which ensured the peace of the city (*sāntika*), i. e., police arrangements.

4. Judicial work, limited to matters of municipal administration.

5. The charge of sacred and public places, e.g. *sabhā prapā* (place for distribution of water), *tatāka* (public baths), *ārāma* (rest-houses) and *devagriha* (temples).

The local bodies also administered poor relief, which, according to *Bṛhaspati*, included not only the material relief of the indigent in times of famine and other calamities (*kulayana nirodhasch*), but also religious or spiritual ministrations including arrangements for the cremation of dead bodies of the destitute and performance

[1] *Arthaśāstra*, R. Shamasastry's translation, p. 53.

of purifying rites for the benefit of their spirits, distribution of gifts among people desirous of performing religious acts, etc.

In another passage *Bṛhaspati* includes among the legitimate purposes to which a local body could apply its public funds, financial support in aid not merely of diseased persons but also of the idiot, the infirm, the blind, the orphan and the distressed.

The local bodies had the freedom and discretion also to take such action as they considered necessary to cope with emergencies, provided always that the action taken was not repugnant to their constitution. We notice from epigraphic records that this discretion was wisely exercised and that a good deal of philanthropic and socialistic work stands to the credit of the local bodies.

Upon the village community devolved by custom the duty of maintaining and keeping in repair the water works of the town which comprised tanks and channels. Several inscriptions deal with the means employed for repairing them and keeping them in proper condition. The removal of accumulated silt was a matter of constant necessity. One of the Ukkal inscriptions runs as follows :—

'We, the assembly, shall close (the sluice of) the tank (to collect water for irrigation) and shall cause 500 kadi of paddy to be supplied as interest every year on these 1,000 kadi of paddy. The great men elected for the year shall cause (the paddy) to be supplied.'[1]

The inscription incidentally records two important facts: (1) that the 'great men' of the assembly

[1] Hultzsch, *S. I. Ins.*, vol. iii, part i, quoted in *Local Government in Ancient India.*

were elected annually; and (2) that the rate of interest was as high as 50 per cent per annum.[1]

A later inscription of the twelfth year of the reign of the Chola King Parantaka (A.D. 907–953) records the fact that a donation of gold made by one of the king's officers for feeding Brahmins was utilized by the 'Tank Supervision Committee' to pay the wages of the workmen employed to remove silt from the 'big tank of our village.'

Having examined the duties and functions of local bodies, let us cull from the *Smṛtis* a few interesting facts regarding the constitution of the municipal fund. *Bṛhaspati* defines the municipal fund in the following terms: 'Whatever is obtained or preserved by the members of the fellowship or for a particular purpose of the society or acquired through the king's favour is common to all (members of the society).' An additional source of the joint-stock is indicated by *Yājnavalkya*, viz. the profits which an individual member of the association may earn in execution of a public work entrusted to him by the association. These profits were legally vested in the Corporation, if we may apply the term to the village assembly, and could not be appropriated by the individual who had reaped them. If he appropriated them unlawfully, he had to refund eleven times the amount of the original profits as a penalty.

The origin of town duties may also be traced to those prehistoric days. In the *Viramitrodaya* we find a reference to octroi duties on goods sold within municipal limits, and in a chapter on immunities enjoyed by the towns the *Vivadaratnakara* mentions a few additional

[1] The ordinary rates of interest varied considerably in different places. Some local bodies paid 5 per cent, some 12½ per cent and others 15 per cent on loans (see *The Copper Plates of Uttama-Choladeva in the Madras Museum* by T. A. G. Rao and N. Ayyar, *Indian Antiquary*, vol. liv., 1925, pp. 61–73).

sources of income, such as those connected with the rights granted to the municipalities to import and export goods without the sanction of Government (and thereby earning immunity from the necessary cesses), to levy a duty on goods carried on people's shoulders, and to decide disputes relative to the conduct of the minor associations existing within the municipal limits.

The local bodies were also invested with borrowing powers. Whenever the sources of local revenue proved inadequate, they had recourse to private borrowing or state help. As a rule, however, the assemblies were endowed with adequate resources to enable them to discharge their varied functions. They were proprietors of most of the village lands. In them were vested lands newly acquired or settled. They were, moreover, the authorities who sanctioned settlements and taxes for them, the taxes being mostly a share of the profits in particular trades. They were further authorized by the sovereign to confiscate and sell land for which no taxes had been paid for a period of two years.

Enough has been said to indicate the functions and resources of the assemblies. Let us now examine the structure and administrative machinery of local government in ancient India.

CHAPTER II

THE CONSTITUTION AND PROCEDURE OF THE VILLAGE COUNCILS

In the early Vedic, Epic and Pali literature we find guilds or local bodies emerging as fully developed institutions with a distinct organization of their own and commanding a position of importance and influence in the state. This position is recognized in the later legal literature, in which we find their independent status and constitutional relations with the state explicitly defined.

'If,' observes Dr. Mookerji, 'the power of independent legislation is one of the criteria of an independent political status, it is amply fulfilled in the case of these local associations. They developed a distinct body of laws or by-laws to regulate their work and activities, the existence and authority of which are clearly affirmed and admitted by our law-books.' Manu is quite explicit on the point: 'A king who knows the sacred law must inquire into the laws of castes (*jāti*), and of assemblies (*janapada*)[1] and of guilds.' According to the same authority, 'in case of conquered country the victorious king must also make authoritative and lawful custom of the conquered just as they are stated to be.' The authority of local laws is also affirmed by *Apastamba* and *Baudhayana*.

If it was the duty of the king to respect the laws of

[1] According to Dr. Mookerji *janapada* signifies 'districts of peoples', but Mr. Jayaswal holds that the word has a technical constitutional significance, viz., the *Janapada* assembly or corporate body for the whole country (*Desasanigha*) in contradistinction to the *Paura* or corporate body for the capital or town.

the local bodies, it was also his business to see that the members thereof observed their own laws. *Yājnavalkya* laid down that 'the king must discipline and establish again on the path (of duty) all such as have erred from their own laws, whether families, castes, guilds, associations, or people of certain districts.' Transportation for life was the punishment for a breach of constitutional pacts and for embezzlement of public funds.

The most interesting evidence concerning the ancient local bodies is that relating to the administrative machinery. According to *Bṛhaspati* these bodies were to be controlled by a board consisting of from two to five persons selected from the best men of the community. Their qualifications are summed up in the following injunction: 'Honest persons, acquainted with Vedas and with duty, able, self-controlled, sprung from noble families, and skilled in every business, shall be appointed as heads of an association.' These executive committees were called *Samuha-hita-vadinah* and *Karya-Chintakah*. The king was required to enforce their authority by penalty. Nay, even the king could not set aside or veto their mandates. Says *Bṛhaspati*: 'Whatever is done by these (heads of an association) must be approved by the king as well, for they are declared to be appointed managers.'

Interesting details concerning the constitution of these ancient municipal bodies in South India may be culled from the Ukkal inscriptions. The village of Ukkal was governed by an assembly called *Sabhā*, also *Mahāsabhā*. The main or central body was divided into several committees, a system which reminds one of the six boards of five members apiece, which were responsible for the municipal administration of the Mauryan capital, Pataliputra, in 300 B.C. An inscription of the Ganga-

Pallava King Kampavarnian (ninth century A.D.), for instance, refers to an Endowments Committee while recording an endowment accepted by the assembly who appoint 'the great men elected for the year' (i.e. of the Annual Committee) as trustees of the endowment.

The next committee mentioned was that of 'the great men in charge of the tank.' This committee was authorized to levy a fine of (one) *kalanju* of gold in favour of the tank-fund from the betel-leaf sellers in the village who sold betel-leaves elsewhere than at the temple of Pidari.

Another committee mentioned in the Ukkal inscription was the Garden Committee.

Still more illuminating evidence regarding the committee-system of these local bodies is furnished by the famous Uttaramallur inscriptions, assigned to the tenth century A.D. They speak of a number of committees, to each of which they gave a different designation, indicating roughly the sphere of work allotted to it, show the method of selection of committee members, lay down the qualifications determining eligibility for selection, and enumerate the causes of disqualification.

The first-named committee was the Annual Committee (*Samvatsara-variyam*), the most important, influential and dignified of all the committees. Only those who had (previously) been on the Garden Committee and on the Tank Committee, those who were advanced in learning, and those who were advanced in age, were chosen for the Annual Committee consisting of twelve members.

Next in order was the Garden Committee of twelve members.

Then there was the Tank Committee composed of six members. The committee was entrusted by the

general assembly with all endowments made in favour of the tanks in the shape of grants of land, and it was its duty to invest the funds in the best possible way.

The fourth committee named was the Gold Committee consisting of six members. This committee probably regulated the currency.

The committee next mentioned was the *Pañcha-vāra* Committee consisting of six members. This committee was appointed to collect the *pañcha-vāra* dues of the village payable in kind in respect of land cultivated by tenants.

One more interesting committee remains to be mentioned, the committee for regulating the elections of all other committees, called the 'Committee for the Supervision of Justice.' The duty of this committee seems to have been to 'supervise the justice' or fairness of the annual elections of the various committees. The inscription says: 'For appointing the committees, after these have retired, the members of the "Committee for the Supervision of Justice" in the twelve streets (of Uttaramallur) shall convene an assembly (*kuri*) with the help of the arbitrator.' The committee's function was thus to convene the annual meeting of the assembly and to conduct the elections of the various committees, whenever vacancies occurred.

The procedure for the election of members of the various committees is of absorbing interest. The village was divided for the purposes of election into thirty wards or electoral units. A meeting of the residents of each ward was held, at which each citizen was required to inscribe on a ticket the name of the person he voted for, having regard to his eligibility for membership of the committee as prescribed by the regulations framed by the assembly. The tickets were then arranged in separate packets corresponding to the

thirty wards. Each packet bore the name of the ward it represented on its 'covering ticket.' The packets were then put in a pot which was placed in the inner hall, where the great assembly met, before a full meeting of the assembly, including the young and the old, and all the temple priests who happened to be in the village on the day, without any exception whatever.

The meeting was presided over by one of the temple priests who happened to be the eldest. After all the tickets were consigned to the pot he stood up and lifted it from the ground 'looking upwards so as to be seen by all people.' A lad who did not know what was inside the pot was then summoned to pick out one of the packets. The tickets in that packet were then transferred to another empty pot and well shuffled. The boy was then asked to draw one ticket out of the pot and to make it over to the arbitrator (*madhyastha*).

What the arbitrator was expected to do may best be described in the words of the inscription : 'While taking charge of the ticket thus given (to him), the arbitrator shall receive it on the palm of his hand with the five fingers open. He shall read out (the name on) the ticket thus received. The ticket read (by him) shall also be read out by all the priests present in the inner hall. The name thus read out shall be put down (and accepted).' Thirty names were thus chosen, representing each of the wards.

This elaborate code of procedure shows how vitally interested people were in those days in the purity and success of the elections on which depended their communal welfare. The system of election by lot was, however, a weak point in the singularly democratic constitution of these assemblies. Probably, as Dr. Mookerji points out, 'the conformity to the conditions of eligibility for membership produced for all practical

purposes approximate uniformity of competence and capacity in the persons named on the voting papers or tickets, so that there was not much to choose between them.' On the other hand, observes the author, 'the method of casting lots would give no scope to canvassing and other electioneering methods of doubtful utility and ethical value.'

The rules of election laid down that a member must possess the undermentioned qualifications to be eligible for nomination by his ward :—

1. He must own more than a quarter (*veli*) of tax-paying land. (*Veli* = 5 acres.)

2. He must live in a house built on his own land.

3. His age must be below seventy and above thirty-five.

4. He must know the *Mantra-Brāhmana*, i.e., he must know the *Veda*.

5. If he owns only one-eighth of land, he must be proficient in one *Veda* and one of the four *Bhasyas*.

6. He must be conversant with business.

7. He must be virtuous, and his earnings must be honest.

8. He must not already have been a member of the committees for three previous years. (This rule did not apply to the election to the Annual Committee for which previous membership of the Garden or Tank Committee was regarded as a qualifying requirement.)

Singular as some of these conditions were, the rules regarding disqualification of members were still more peculiar. Dr. Mookerji gives the following formidable list of persons whose selection as members was prohibited :—

(*a*) Defaulting committee members (i.e. those who have not submitted accounts) and their relations, however remote. The relations comprised (1) the sons of

the younger and the elder sisters of his mother; (2) the sons of his paternal aunt and maternal uncle; (3) the uterine brother of his mother; (4) the uterine brother of his father; (5) his uterine brother; (6) his father-in-law; (7) the uterine brother of his wife; (8) the husband of his uterine sister; (9) the sons of his uterine sister; (10) the son-in-law who has married his daughter; (11) his father; (12) his son.

(*b*) Incorrigible sinners and their relations, however remote. The sinners comprised those against whom were recorded 'the first four of the five great sins; viz. (1) killing a Brāhmana; (2) drinking intoxicating liquors; (3) theft; (4) adultery with the wife of one's spiritual teacher; and (5) associating with any one guilty of these crimes. The relations included those enumerated above.

(*c*) Outcasts, until they performed the necessary expiatory ceremonies, provided the cause of excommunication was only association with low people, and not any serious moral lapse.

(*d*) Those who were mentally or morally disqualified.

(*e*) Those who were themselves disqualified but did not transmit their disqualification to their relatives. This class included those who had (1) taken forbidden food of any kind (which was equivalent to drinking intoxicating liquors according to Manu); (2) committed sins (notably those specified above); (3) become village pests; and (4) committed incest. Even though they might, by the proper performance of necessary expiatory ceremonies, prevent the transmission of their own disabilities to their relatives, they remained themselves disqualified. Expiatory ceremonies might remove religious, but not civic and political disabilities of persons guilty of grave offences.

With regard to the *Pañcha-vāra* and Gold Committees, which perhaps were not annually appointed, two additional disqualifying circumstances were introduced, viz. (*a*) riding on an ass which, says Dr. Mookerji, was apparently a punishment for some offence and hence implied a conviction disqualifying the candidate ;[1] (*b*) committing forgery, which was a special disqualification in the case of membership of a Currency Committee.

RULES OF DEBATE

No meeting was valid without a quorum. The total number of members to form a quorum of the assembly, according to one inscription, was ' at least that of all the various sub-committees put together,' which amounted to forty-two. The following rules of procedure observed in the Buddhist *samgha* or religious assembly are recorded in various Pali works, and were possibly modelled on the rules followed by the republican assemblies of the Buddhist age.

' When Bhikkhus assembled in chapter became violent, quarrelsome, disputatious, and kept on wounding one another with sharp words, the dispute was to be settled by the vote of the majority.'

' The votes were to be signified by tickets.'

A teller was appointed to count the votes. ' Some able and discreet Bhikkhu ' was to bring forward a motion that the Bhikkhu ' of such and such a name ' should be appointed a ' receiver of the voting papers.' The motion

[1] ' Riding on an ass ' need not have been a punishment for an offence. The ass is generally considered unholy by the Hindus and its mere touch is held to cause pollution. It is also believed to be the vehicle of the goddess of small-pox. Manu holds driving in a waggon drawn by an ass as a sin. Such beliefs were in themselves sufficient to disqualify a candidate who rode on an ass and was defiled according to Hindu ideas. But there is no doubt that one of the most humiliating punishments inflicted in former days throughout the country was to take a man or woman round the streets of a city on the back of an ass. In his *Omens and Superstitions of Southern India* Mr. Thurston states that in former days adulterers were seated on an ass, with their face to the tail, and marched through the village.

was then placed before the house. Those in favour of it were to keep silence. Those against it were to speak.

Eloquence was extolled as a special merit. The *Rig-veda* speaks thus in appreciation of a successful debater: 'All friends are joyful in the friend who cometh in triumph, having conquered the assembly.' In *Atharva-veda* a speaker 'seeks the help of spells and magic herbs to stimulate his eloquence in debate and overcome his rival debaters,' and says, 'May (my) foe by no means win the dispute; over-powering, over-coming art thou; smite the dispute of (my) counter-disputants; make them sapless, O herb, make them dry-throated, incapable of speaking or devoid of sweetness of speech; make their speeches irrelevant, inconsistent and incoherent.'

Respect for the meeting was thus expressed: 'Homage to the assemblies and to you, Presidents of the assemblies.'

Members' speeches were expected to be 'free from impropriety and rudeness and always agreeable and fair, never foul.' We find them praying for forgiveness of any sins of omission or commission, of which they might be guilty in debate. 'Each fault in the assembly . . . . that we have committed . . . . even that sin, thou (*Surya*) are the expiation.'

An inscription of the ninth century A.D., discovered in Tinnevelly, records some rules of debate, one of which forbids the persistent obstruction of the proceedings of the assembly by members saying 'nay, nay' to every proposal brought before the assembly, and provides that 'those who do this, together with their supporters, shall pay a fine of five *Kasu* on each item in (respect of) which they have so behaved.' Here is a new source of income for assemblies with depleted exchequers.

For the solution of difficult and intricate cases special

committees were appointed. These committees consisted of Bhikkhus 'possessed of ten qualities,' mental and moral, including proficiency in the traditions and rules of the Church, as well as capacity to deal with legal questions. An instance of this procedure is also recorded, when the venerable Kevata put forward a resolution before the *Samgha* at Vasali: 'Let the venerable *Samgha* hear me. While we are discussing this legal question, there is much pointless speaking, and no sense is clear in any single speech. If it seem meet to the *Samgha*, let the *Samgha* settle the legal question by referring it to a jury.'

For regulating the seating of members a 'seat-regulator' (*āsana-praññāpaka*) used to be appointed. He was a Bhikkhu of at least ten years' standing, and his business was to allot seats to members according to their seniority and to see that they were provided with the seats they required (mats or rugs) in the hall or grove where they met.[1] Once in the history of the Corporation of Bombay the need for such a seat regulator was keenly felt, when the chair occupied by Sir Phirozeshah Mehta remained vacant for several days after his death and was then quietly appropriated by an unblushing member to the amazement of his colleagues.

Such were the ancient town councils. Some of the regulations point to the existence of turbulent elements in the assemblies; but however turbulent and irrepressible the members of those bodies may occasionally have been and however primitive their system of sanitation, their organization for the management of local affairs challenges comparison with any contemporary system of local government in any part of the world.

[1] A full account of the details of procedure in the Buddhist *Samgha* is given in chapter xi, part i (Procedure of Deliberation in Hindu Republics) of Jayaswal's *Hindu Polity*.

CHAPTER III

DISINTEGRATION AND RESUSCITATION

RANADE says in his *Rise of the Maratha Power* that the elaborate system of village councils in India had been developed in ancient times to a point which enabled it to survive all foreign interference. The survival was, however, but a faint relic of the past. One by one the ancient units of local government were gradually disintegrated. 'Our little systems have their day; they have their day and cease to be.'

When the British assumed territorial sovereignty in India, the popular urban and provincial assemblies of Ancient India, of which we read in the Hindu law-books and in Buddhist literature, had totally disappeared and had, it seems, been clean forgotten. The decay of popular institutions and of Hindu constitutional traditions dates from A.D. 700.[1] The imperialism of the Guptas, followed by other autocracies, and finally by the Muhammedan and Mughal centralized despotism, was partly responsible for such decadence. In the time of Shivaji there was a revival of the ancient ideas and a constitution was drawn up based on the *Sukraniti* and the *Mahabhārata*. The system elaborated was, however, only one portion of Hindu polity. The people had their *Ashta Pradhan* corresponding to the *Parishad* of Ancient India, but they had forgotten the *Paura* and *Janapada*,

[1] Jayaswal dates the decay of Hindu constitutional traditions from A.D. 650. From that date 'the community ceases to breathe freedom. The causes of this decay must be internal and have yet to be investigated. The Hun invasion alone cannot explain it. The Huns were fully crushed within a century by successive dynasties. Yet the old life refused to return.' (*Hindu Polity*, part i.)

the provincial and urban corporations, which had vanished beyond recall. The only popular assembly existing in the Dekkan, when the English annexed the Peshwa's dominions, was the village council, the panchāyat. This alone had survived the shocks of ten centuries and this Mountstuart Elphinstone did his best to preserve intact. For several years the village panchāyats settled civil suits as they had done under the Peshwas, but as the East India Company's administration became more complex and centralized, they tended to lose much of their ancient power and prerogative and to become merely vehicles for the settlement of caste disputes and cognate matters arising within the village boundaries. There was no room for them in the new system of administration. The hand of the state controlled all local affairs.

The result was the same in India as it was elsewhere in similar circumstances. Whether in the East or in the West, wherever and whenever centralization becomes the order of the day, towns which once enjoyed local autonomy are reduced to the position of governed rather than self-governing units. In the history of nations there is nothing more depressing than the spectacle of a free people reduced to the position of vassal communities, the deprivation of their power of initiative and the subjugation of their spirit of independence, as the inevitable result of the paralysing and demoralizing influence of centralization. Let us take an illustration from the history of local government in Germany. There, as in India, the existing local institutions owe their origin to the will and pleasure of the central authorities. There also, as in India, although extensive prerogatives are vested in towns for self-government, the municipal administration is still controlled by executive officers, the citizens as a body merely creating, putting in

motion and directing the machinery of government. There, again, the popular assembly is supreme in the sphere of finance, as is the case in Bombay, so that in the event of conflict the superior body has the ultimate power to assert its will. In the early era of German absolutism all the privileges enjoyed previously by the people were completely usurped by the Crown. The prevailing spirit of the times was reflected even in the councils of the city republics. One of these councils issued a proclamation in 1602 affirming the principle of Kaiserism in its purest form: 'If a Government should be godless, tyrannical and covetous, the subjects have still no right to resist; they should rather regard such a condition as a punishment of the Almighty visited upon them for their sins.'[1]

To trace the way in which, after three centuries of dubious progress, this doctrine of Kaiserism swayed the German people until the outbreak of the world-war, will be the work of the historian of that unparalleled tragedy. Our immediate object is merely to emphasize the baneful influence such subjection had on the character of the people and to indicate the measures that had to be devised to bring about a national renaissance. In reducing the communes to a condition of enfeeblement, the nation as a whole was deprived of the power of initiative and courage. Having thus been crippled and incapacitated for the discharge of the ordinary duties of every-day life, it was rendered incompetent and unfit for meeting larger responsibilities. 'Then it became evident,' writes Ronne, 'how many civic virtues had been extinguished, that the towns were without public spirit, that all desire to bring sacrifice for the common weal, all zeal and all love for public affairs, had been

[1] Dawson, *Municipal Life and Government in Germany*.

lost, and thus the surest foundation of true patriotism was lacking.' 'So completely had the German peoples been dragooned by their multiplicity of petty autocrats,' says Dawson, 'so well had they learned the lesson that the first and only duty of the citizen is to obey the ruling power, that when Napoleon entered the country they accepted the new suzerainty almost as a matter of course, and when the usurper approached their towns it happened that not only patrician and populace, but state officials and military officers, received him at the gates. So completely does the canker of subjection corrupt the heart of a nation; so lightly does the sentiment of loyalty hold a subdued and over-disciplined people.'[1]

When at last Prussia's fortune was at the lowest ebb and its very extinction as an independent state seemed imminent, the famous Baron Von Stein succeeded in convincing Frederick William III that the only hope of national renaissance lay in the abolition of the feudal system and the emancipation of the peasantry, combined with a fundamental reform of local government, leading up to the institution of a national Parliament. The creation of free towns in a free state was his ideal. If a new state was to rise upon the ruins of the old, it must be by the co-operation of the whole nation, and the most natural field for the exercise of such co-operation was, in Stein's opinion, the commune. Hence the first step was to strengthen whatever remained of the old tradition of free, self-governing communities, to adapt the old communal system to new conditions and to modernize the administrative organization of the provinces. Above a reformed system of local and provincial government,

[1] Dawson, *Municipal Life and Government in Germany*.

broad-based upon it, he desired to construct a system of national government, regulated by a free constitution. Thus the nation was to be fitted for political duties and rights by being first trained in the duties and rights of citizenship in town and village, in district and province. In a letter to a friend he wrote: 'The nation must be enabled to manage its own affairs and to emerge from the condition of tutelage in which an ever restless and vigilant Government seeks to keep it.'

From the days of Lord Mayo and Lord Ripon to this day the resolutions of the Government of India on local government have breathed the same spirit of freedom and enlightenment. To bring home to the people of India the ideals of local self-government, to create and develop among them a spirit of self-help and to train them in the duties of citizenship and the art of administration, was the fundamental object of these resolutions. To what extent Bombay availed herself of the facilities offered, how far the officers of Government helped or hampered the citizens in their efforts to qualify themselves for the art of self-government, will be shown in this book. Meanwhile, it should be remembered that before this sagacious policy was inaugurated, the ancient autonomous village organization, which had lasted in one form or another throughout the long period of Hindu Imperialism, Hun invasions, and Muhammedan domination, and which was still existent when the English assumed territorial sovereignty, had largely decayed under the centralizing policy followed by the East India Company. Nevertheless it did exist—a shadow of its former self—and was utilized bythe English administration to carry out the time-honoured duty of watch and ward in rural areas. In this respect the village organization proved to have greater vitality than the larger and more important popular communal institutions of ancient

India, which in the forms of the *Samti*, the *Saṅgha*, the *Sabhā*, the *Gana*, the *Nitaya*, the *Janapada*, the *Paura*, and so forth, had vanished and become forgotten long before Baber defeated Sultan Ibrahim Lodi on the famous field of Panipat.

CHAPTER IV

EXEUNT THE PORTUGUESE

ON the marriage of Charles II to Catherine of Braganza in the year 1661 the crown of Portugal ceded to the crown of England the finest harbour in the East and with it the beautiful island of Bombay as a part of the dower of the Portuguese bride. The major portion of the island was then more or less submerged in the sea and the little soil that remained above water was scarcely worth cultivating. The place had not even attained the status of a Caçabe, or chief station, and no one then appears to have had even a vague conception of the potential value of the port except the Portuguese Viceroy on whom devolved the disagreeable duty of handing over possession of the ceded island to the English. He alone, it seems, had sufficient prescience to visualize the future greatness of what then seemed to be but 'a small thing.' He therefore managed to put off the evil day, discovering ingenious excuses for delaying the transfer. Acrimonious correspondence ensued. The following extract from the despatch sent to the English Ambassador in Portugal on 14th May 1663, shows that the happy alliance between the two countries was then perilously near breaking point:

'The dishonour and disappointment of such a thing,' wrote Sir Henry Bennett to the Ambassador, 'and the expense His Majesty had been at to send for it, hath left him in the last resentments against this usage that can be imagined, and I am bid to tell Your Lordship that less than the Viceroy's head, and satisfaction for all the damages and expense His Majesty is exposed to by this disappointment, will not suffice to pay His

CATHERINE OF BRAGANZA

Queen of Charles II

Majesty for this affront; it being expected that what be done of this kind, and the possessing us of the aforesaid island—which, by the way, is found to be far inferior to what it was represented—come from Portugal itself, without the concurrence of any demands or diligences on our side.'

Two days later, Lord Clarendon wrote to the Ambassador: 'If some sudden satisfaction be not given, there will soon be an end of our alliance with Portugal.'[1] Meanwhile the Portuguese monarch had received from the Viceroy a letter entreating him to resile from the compact.

'I see,' he said, 'the best port your Majesty possesses in India with which that of Lisbon is not to be compared, treated as of little value by the Portuguese themselves, I see in the island of Bombay so many Christian souls which some day will be forced to change their religion by the English. How will they allow Catholics to reside in their territories when they hand over Catholics in the island of Anjuame to the Moors? I considered also that your Majesty has no other place to receive and shelter your Majesty's ships and the gallions of your fleet when that bar is closed. The English once there, and the island fortified, your Majesty will lose all to the north, as they will take away all your Majesty's trade. They bring the same articles as we do, and of better quality; they will compel all vessels to be put into that harbour and lay duties as we did formerly, we shall have to receive from them what England sought from us; even the provisions of our land which supply all our fortress, we shall have to buy from them because giving one or two *xerafins* more for each *mura* of rice they will gather all and sell afterwards for its weight in gold. Do not believe, your Majesty, that it will be possible to prevent it, for no dilligence will be enough, and that was the manner in which the Moghals have destroyed those lands, through which cause many persons have died from famine. It is yet possible to prevent them from taking away the provisions, for which I have left in those parts necessary instructions. But it is impossible in

[1] *Public Record Office*, C.O. 77, vol. ix, reproduced in *Anglo Portuguese Negotiations relating to Bombay* by Dr. Shafaat Ahmad Khan

Bombay, because it is separated from Salsette by only a cannon shot, and it would have to spend more in keeping watch than it would yield in revenue. Lastly, the criminals will find a shelter, and if with the neighbourhood of the Moors they commit so many crimes, how daring will they be with that security?

'That English are at peace with us now, but what would it be in case of war? How can those islands which are the graneries of India, once wedged in between the British and the Mogores (Moghuls) be defended? Who can prevent the natives from passing over; what drugs and merchandise will traders go to Goa in search of?

'I have shown how I have obeyed your Majesty's orders by preserving the reputation of your Majesty's arms, and prevented the total loss and destruction of your Majesty's territories by not handing over Bombay.

'Now let your Majesty command the consideration of this subject, remembering that seeing is different from hearing; and as you are my King and Lord, I do my duty in giving this information, that your Majesty may order what is convenient. If it is not liked, I shall be sorry, but it suffices that no blame be attached to me at any time.

'As a remedy for all the aforesaid there is only one thing, and that is for your Majesty to buy this island from the King of England. In another letter to your Majesty I say that your Majesty can give from 200 to 300,000 *crusados* (£25,000 to £37,500) in three years, now I say your Majesty can give 500,000 to 600,000. May I undertake to say that all in this state, who would be pleased to be free from such a yoke, would assist in carrying out the arrangement? This purchase will further help to make peace firmer with the English, because such a neighbourhood will occasion every day discontent and strife ending in war.'

Whatever effect this representation might have produced was wiped out by the peremptory commands of the King of England. King Alfonso therefore sent, on 10th August 1663, a final order to the Viceroy to give peaceable possession of the island to the English without further delay. No alternative was then left to the heart-broken satrap. We, therefore, find him writing

to his royal master in January 1665 in these touching terms :

> ' I confess at the feet of your Majesty that only the obedience I owe your Majesty, as a vassal, could have forced me to this deed, because I foresee the great troubles that from this neighbourhood will result to the Portuguese ; and that India will be lost the same day in which the English nation is settled in Bombay.'

The ' poor little island,' as Pepys describes it in his diary, was thus ceded to the Crown. Humphrey Cooke, the ' Governor of all the forces of His Brittanic Majesty in the island of Bombay in the East Indies ' personally took possession and delivery of the port and island of Bombay, ' walking thereupon, taking in his hand earth and stones, entering and walking upon its bastions, putting his hands to the walls thereof, and walking also on the said island, taking into his hands the earth and stones thereof, and making all other like acts which in right were necessary without any impediment or contradiction.'

' In this Island,' said Cooke in a letter dated 3rd March 1665, ' was neither Government nor Justice.' There was no Lord Mayor or President of the Municipality to present an address of welcome to the new Governor. A different class of ' mayors ' however, dominated the different divisions of the island. How obnoxious their rule was can be gathered from the humble petition and manifesto which the inhabitants in general of the island of Bombaim submitted ' to his Sacred Majesty Charles II.' The picture was probably overdrawn, but even after due allowance is made for oriental hyperbole and for the readiness of human beings to adore the rising sun, we get in this petition a glimpse of those defects of Portuguese dominion which drove

the population of Bombay to welcome the advent of the British. This petition has been embodied in Dr. Shafaat Ahmad Khan's *Anglo Portuguese Negotiations*, and it seems desirable to reproduce it in full:—

'MOST HIGH, MOST EXCELLENT AND MOST PUISSANT KING, OUR LORD AND PRINCE.

'The Inhabitants as well Catholiques as Mahometans and Gentiles Incorporated together, doe manifest unto your Majesty like Loyall Subjects; That, whereas this Island being formerly belonging to the Crowne of Portugall, there were in each Division thereof Foreiros Mayores, or Cheife Farmers; men powerfull, arrogant, and Exorbitant violators, Ecclesiastiques as well as Civil; whose manner of Government was absolute bringing the inferior sort of us so much under, and made so small accompt of them, as comparatively wee may say the Elephant doeth of the Ant; murdering whome they pleased arbitrarily, as if their will had been a sufficient reason, to satisfie their owne cruel lust against all Right whatsoever; they likewise robbed without the least consideration or feare of the Deity; not suffering the Kings Ministers to take any cognisance of the outrages they daily committed upon us; presumeing much upon their owne Greatnesse (being Fidalgos) and Riches, they had sucked from the vein's of the People, laying what impositions they of their meere wills pleased; which the Magistrates consented unto by the mediation of Bribes, which caused them in lieu of hearkning to our Complaints; rather to prejudice us by favouring, and conforming themselves to the practices of the Exorbitants. None could with liberty exercise their Religion, but the Roman Catholique; which is wonderfull confining with rigorous precepts. They tooke Orphan Children from whomsoever they pleased; and per force made them Christians; stopping the eare to the cryes of the mothers; and kinreds just Complaints of their discontents; Besides infinite other Tyrannies which are so many that tis impossible to sett them all downe in writeing, in so much that this Island was brought to so bad an Estate, so much consumed, so much desolated, and so very miserable; that it moved pity to behold it.

'Having thus suffered for many yeares; it pleased God of his infinite Mercy to send us the Government of your Sacred Majesty

as a souveraigne medecine for our (otherise incureable) malady which through the malice of the said Exorbitants (who had bribed the Viz Rey Antonio de Mello de Castro) was delayed for a long time, we most anxiously wishing for ; and impatiently expecting the good houre of the alteration ; which not long since wee were blessed with. From the begining of which to this present, especially under the Government of Henry Gary Esq., wee have found great tranquillity ; every one enjoyeing his owne, with a great deale of liberty ; and in Generall the free exerise of their Religion ; experimenting universal justice, both small and Great, Rich, and Poore ; And that which wee have most reason to celebrate this present Governour for, is, the expedient administration of justice ; his continual assisting us with dispatches, the brevity which he uses in concluding our pleas ; and his patience in heareing even the least of them ; his kindnesse in voiding our expences ; so just, disinteressed, pious and pacifique ; that wee beseech God to affoord us still the like Government ; And, because we have notice given us by what the said exorbitants publish, that they with great summes of money ; and by intercession of the King of Portugall endeavour to reduce this Island to his Obedience (as formerly) and Confident hereupon, they thunder out their menaces ; that they will have satisfaction for the obedience that wee have to this houre duly paid to your Majesty ; Hereof wee doe not in the least doubt ; but that they would Tyrannise over us, and shew us Hell in this World, from which Good Lord etca.

'Wherefore, wee humbly beseech your Majesty for the love of God and for the wounds of Jesus Christ, to take pity and compassion of us by not consenting to alienate us from your Government, and the Obedience thereof upon any Consideration or agreement whatsoever ; neither to permitt any more Foreiros Mayores in this Island ; because every one was a justiciary in his owne house ; Sithence with the protection of your Sacred Majestys Name, and the Great faith all people had therein ; many came to inhabitt in this Island from other parts, and live subject to its Government ; employing their Stocks in building of Houses ; and buying of possessions for their livelyhood ; which would bee unjust now to bee consumed with the old hatred. For if wee had not experimented the clemency of your Majestys Government, wee should not have had so many quarrills and

disputes with the Exorbitants, nor yet have laid out our moneys ; But the hopes affoorded us of your Majestys Paternal care, greatest reputation and piety, give us to believe ; that we shall receive your acceptance of this our Petition and Manifesto, and that your Majesty will graunt our desires herein, upon confidence hereof wee shall enjoy rest and quietnesse, by your Majestys mercy and Clemency.

'The Originall of this Petition in Portuguez, which remains here in this Garrison of Bombaim upon Record, is signed by 225 of the principalest Inhabitants of this Island, vizt.

123 : Christians
84 : Gentuies
18 : Moores

225 persons in all.

[*Endorsed*]

To His Sacred Majesty of great Britian.
The Humble Petition of the
Povo of the Island of
Bombaim.
Its Copie in English.'

It was thus the reputation of the British as champions of liberty that made the people of Bombay hail the new suzerainty. The Portuguese residents themselves, however, resorted to all possible devices to throw off the foreign yoke.

'The Jesiuts,' reported Cooke, 'are much troubled at our being here, and strives all may bee to make us odious to the people, and hath already attempted to take Orphants off this Island, of the Gentues, Moores and Banians, to force them to bee Christians which if should bee suffered wee shall never make any thing of this place, for the liberty of Conscience makes all the aforenamed desirous to live amongst us. I shall doe all may bee to give them encorougement, as his Majestie Commands in his Instructions. They desire to have Churches, but for the present I have not granted it, neither shall till I have further Orders for it. If I should the Portugalls will strange (*sic*) in regard they looke on it as a scandall to their Church, for the

present I have ordered they use their Ceremonies in their houses privately, but are not to give scandall to any.'

The administration of the first Governor of Bombay came to an abrupt and ignominious end. In the first place, Cooke's social position offended the Portuguese as well as the English. The Portuguese Viceroy declared he had met Cooke in Lisbon, where he once carried on the trade of a tanner, according to some informants, or of a grocer, according to others. In the second place his principles were tainted by the Mammon worship of the early adventurers. In bartering away the King's revenues, he was guilty of grave indiscretion, if not of corruption. The King, therefore, appointed Sir Gervase Lucas to take over the office of Governor from him. After having carefully studied the documents which had been sent to England, Sir Gervase reported that it would be necessary for him to take out four hundred men and provision and stores of every kind to supply the garrison for eighteen months. According to his estimate, the cost of the garrison would have been 'upwards of seven thousand pounds,' and he submitted that £2 per day was hardly a sufficient salary for the Governor of such a distant station. This report was referred by his Majesty to the Secretaries of State, who replied that it would be 'improper to incur any great expence upon Bombay.' Such was the value of Bombay in the estimation of its new masters notwithstanding the intention of the English monarch, as subsequently revealed in the letters from Sir Gervase Lucas to the Indian rulers and merchants, 'to make the port of Bombay the flourishingest port of India.'

In his despatches to the Lord Chancellor the new Governor described in detail how Humphrey Cooke had played ducks and drakes with the King's revenue. We are not, however, concerned with the question, and have

no need to examine the charges of extortion and speculation for which he was imprisoned. Before we take leave of the new Governor, let us notice the following extract from his despatch of 2nd March 1667, in which he describes the oppression of the people by those in authority, and their meekness.

'His Majestie and the Queen will have loud Outcries against me from the Jesuites, Barnardine de Tavora and Igius de Miranda, which 3 have almost the whole Island of Bombaim in their possession, with the Fishing in Salt water, and power of Tribute over the People, power of punishment, imprisonment, whipping, starving, banishment; all which since my arrivall, I have secured the Inhabitants from, allowing no power to any to punish but by order of his Majesties Governour upon the place, or by such Justice of peace as are appointed by the Governour; which hath put the whole Island into a secure and quiet Conditione as to their persons and Estates; and I dare Confidently aver to your Lordshipp his Majestie hath not in all his dominions a more obedient, peaceable and easie to be governd people then these, except the Jesuites and the other two, who have till this time governd the people, and lived by the rapine and spoile of the Inhabitants: and therefore I hope their complaints will not be able to obstruct my endeavours justly to advance his Majesties Revenue: nor will it seem unreasonable to you, when their complaints come before you, to returne them to the Governour of the place with his Majesties command to doe them Justice, which if reason will satisfie them, they now have.'

CHAPTER V

FIRST STEPS IN LOCAL GOVERNMENT

THE next important landmark in the story of our island city is its transfer to the East India Company by the Charter of 1669. 'The true motive,' says Edwardes in his *Rise of Bombay*, 'probably was the complete indifference of the King to the value and welfare of his lately-acquired possessions, and the very keen desire of the Council at Surat, firstly, to put an end to the quarrels which had arisen between themselves and the Bombay Governors on the question of the issue of navigating passes, and secondly, to obviate the hostilities with the natives of India, which were occasioned by the high-handed actions of the Crown representatives, and for which the powers in India held the Company responsible.' Under the Charter the island was to be held by the Company of the King 'in free and common soccage, as of the Manor of East Greenwich, on payment of the annual rent of £10 in gold, on the 30th September in each year,' and the Company was invested with full powers for the Civil and Military Government of the island. From a trading corporation the company thus became a territorial sovereign.

The early English governors of the port were as blind to the importance of the island as were their Portuguese predecessors. There soon appeared on the scene, however, a ruler of rare discernment who perceived at a glance the worth of 'this precious stone set in the silver sea.' This was Gerald Aungier, 'the chivalric, intrepid man,' the first in India to unveil the face of Justice in Bombay, the first to lay the foundation of

its greatness, the first who, in the words of Douglas,[1] taught us 'the art of self-government and the wisdom of dealing with our neighbours,' sage in counsel and bold in action.

Even among the adventurers and shop-keepers of the sixteenth and seventeenth centuries whom the romance of the wealth of Ormuz and of Ind lured from the West to the East, there was a leaven of scions of good families, bred in the best traditions associated with the title of an English gentleman. Gerald Aungier was one of these, a devout Christian brought up in the school of Cromwell. In a manuscript copy[2] of the memoirs of his family, called *Three Generations of a Legal House*, by 'C. I. B. A.,' Aungier's connection with the law is traced to remote Plantagenet times. Having inherited a considerable share of his grandsire's legal wisdom, and having had the benefit of superior education and good breeding, he showed during his administration of the island that he was a man who knew not only how to build empires but also to weld them together in enduring bonds of fellow-feeling and good will. 'In his masterful character as a man of culture and of action,' observes Da Cunha, 'Gerald Aungier resembles D. João de Castro. They were both scholars and real representatives of the genius of Western literature in India in their respective periods, and their letters, the only exponents extant of their thoughts, like the works of great authors, are imbued with the feelings

> "Of those immortal dead who live again
> In minds made better by their presence."'

We find Aungier first landing on the shores of Bombay on 18th September 1662, when he stood side

[1] *Bombay and Western India.*
[2] The author is indebted to Mr. S. T. Sheppard for a loan of this copy.

by side with the Earl of Marlborough to claim the island for the King of England. On the death of Sir George Oxenden in 1669, he succeeded him at Surat as President of the East India Company in India, Persia and Arabia, a post which then carried with it the Governorship of Fort St. George and the fort and island of Bombay. Within a short time he gave proofs of his genius for administration. His most notable work was his thoughtful lay-out of the town of Bombay. 'It is,' he exclaimed, 'a city which, by God's assistance, is intended to be built,' and he set about building it with dogged determination and foresight.

In a letter to the Court of Directors he advocated the transfer of the seat of the Company's government from Surat to Bombay and made prescient proposals for the improvement of the town and island of Bombay. He also suggested that encouragement be given 'for artificers and handicraftsmen of all sorts to come out and live on the island with their families.'

'The handicraftsmen which are chiefly wanting,' he observed, 'are Husbandsmen and Gardeners, who understand planting and improving of the grounds, the ground of Bombay being apt to receive and bring forth any seed or plant whatsoever when the times and seasons are sufficiently understood; weavers both of silk and cotton, etc., who in short time may procure to themselves a very comfortable livelyhood, Carpenters for building of houses as well as ships, who are much wanted and much esteemed, Smiths who also are much wanted, Goldsmiths and Locksmiths, Armorers, Bakers, Cooks, Shoemakers, Tailors, Diers, Barbors, Button makers, Ribbond weavers, Butchers, Haberdashers of small ware, etc.'

He also expressed a desire that the court would send out 'some fishmongers with their families with rules for erecting a company of Fishmongers that better order may be observed therein.'

When the island passed into the hands of the British, the only communities known to reside in it were the aboriginal Kolis and a few Hindus, mostly of the lower castes, who had escaped conversion by the Portuguese, a few pure Portuguese families, several families of Portuguese half-castes, a few missionaries and the British servants of the Government. The first new comers were the Gujarat Baniās. In 1671 the *Mahājan*, or Committee of the Surat Baniā community, asked for certain assurances as to their safety and liberty of conscience and privileges before moving to Bombay, and the Company complied with the request. Six years later followed the settlement of the Diu Baniās. They also obtained several assurances which were embodied in a formal agreement. One of the clauses of this agreement was to the effect that the Baniās should 'enjoy the free exercise of their religion, secured from all molestation, and that none of their religion, of whatever age, sex or condition, should be compelled to embrace Christianity.'[1] Then came the Armenians and lastly, the Parsis.[2]

It was during Aungier's régime that the foundations of law were first laid in Bombay. For want of properly qualified Englishmen, the judicial offices had been filled by the Portuguese. Aungier represented to the Court of Directors that this arrangement was not only dishonourable in itself but also exposed the Government and the proceedings of the Court to many inconveniences.

The Fair Common House, known to this day as *Mapla Por*, with its chambers for the courts of justice, warehouses or granaries for corn, ammunition, etc., and

[1] Da Cunha, *The Origin of Bombay*.

[2] The two prominent communities of Bombay, the Baniās and the Parsis, were in those days unknown to the civilized world as would appear from the title of the book written by Henry Lord, who was 'Preacher to the Honourable Company of Merchants' in 1645, *A Discovery of Two Foreign Sects in the East Indies*.

prisons for offenders, was designed and erected by him. The finances of the Company were then at a low ebb. That was probably the reason why we find the Court of Directors getting a little fractious and writing to him, after the buildings had been completed, to the effect that in their opinion he had not been managing the affairs of the City economically. They also did not approve of 'the great charges expended and the grandeur he used on the island.' Undismayed the Governor promptly replied: 'The moneys expended on public appearance were, by serious debate in council, made suitable for the decency and advantage of your affairs and free from vanity and superfluity. . . . As for the buildings they were judged absolutely necessary and such as you cannot be without.' He added that if the reply did not satisfy his masters he was willing to defray the cost of the Fair Common House out of his own purse, provided the company paid him reasonable rent for the time that it was used as a Court of Judicature. This episode might lead one to conclude that the treatment meted out to the intrepid reformer must have cooled his ardour. Let it be recorded to his credit that it was not so. From the special chapter devoted to him in Mr. Malabari's book[1] we find that his zeal for improving and developing the city remained unabated till the end of his life. When the shadow of death was hovering about him, he wrote to the Bombay Council, propped up in bed, 'to build a street of houses on Bombay, reaching from Judge Nicholls house to ye water-side.' In this case also he offered to carry out the improvement as a private scheme if the Directors did not approve of the project.

One of the most interesting features of Aungier's administration was the use he made of the ancient

[1] *Bombay in the Making*.

panchāyat system. To weld into one homogeneous mass the discordant materials of Asiatic nationalities, to solve the problem, which had never been solved before, as to how a great multitude of men of diverse religions and races should live together in peace and harmony, free from discord within and aggression without, this, says Douglas, was the work Aungier set himself to do. And how did he do it? In the *panchāyat* system, as then existing, he found a key to that difficult problem of administration. In his opinion it was necessary, with a view to preserving the Government from the confusion which a body composed of so many nations would be subject to, that

'ye severall nations at pres*t*. inhabiting or hereafter to inhabitt on the Island Bombay be reduced or modelled into so many orders or tribes, and that each nation may have a Chief or Consull of the same nation appointed over them by the Govr & Councell whose duty and office must be to represent ye grievances w*ch*. Moors or any of the s*d*. nation shall receive from the Christians or any other, as also to answere for what faults any of the s*d*. nation shall committ, y*t*. the offenders be brought to punish*t*. and that what dutys or fines are due to the Comp*a*. may be timely satisfied; his office may be also to arbitrate and determine all controversys w*ch*. may arise between s*d*. nation, in case the partys are so agreed, otherwise they are to be brought before the Courts of Judicature . . . . Now as to the choice of these Consulls, it seems necessary that they be chosen yearly or at most every third year ; that at their election they take an oath of fidellity, in such tearms as the Hon'ble Comp*a*. shall please to impose on them, that such who meritt well from the Hon'ble Comp*a*. by good service, advancing of trade, inhabitants or shipping or bringing any considerable profitts and emoluments to the Island, be rewarded by some particular honours and speciments of the Hon'ble Comp*a*. favour towards y*m*. that others also may be invited to deserve in the same nature.'

Aungier, it will be seen, was merely advocating the resuscitation of the system of headmen or 'elders' not unknown in Bombay in early days. The Mattharees,

i.e. Mhataras, are mentioned in connection with a survey of the island projected by Hermann Blake in 1670 (*Bombay City Gazetteer*, ii, 319) and these *Mhataras* were, no doubt, the seventeenth century equivalent of the ' *grama gosha* Mahattareh ' of the *Rāmāyana*. The Mhataras were associated usually with the Vereadores in matters relating to land surveys and assessments and were the link between the Company and the Bombay landholders of early days. Under the rule of the Portuguese the Dheds and Kunbis had a *mamdadore* or superintendent, who was responsible to the authorities. It seems likely that Aungier proposed the appointment of ' Consuls ' or caste headmen as arbitrators on the analogy of the *Mhataras* who performed similar offices in respect only of land tenure and assessment.

CHAPTER VI

DAYS OF THE MAYOR AND ALDERMEN

WHETHER the various communities in whom judicial powers were freely vested by Aungier managed their municipal affairs also we have no information. The functions we now call municipal were not then divorced from judicial and other administrative activities of the state. None of the early charters for the governance of the city and the administration of justice deals specifically with city management. The first enactment to take cognizance of municipal affairs was the little-known charter of 1687 for the establishment of a Municipality at Madras. 'Among the prerogatives of the Crown,' says Sir Courtenay Ilbert,[1] 'one of the most important is the power of constituting municipal corporations by royal charter. Therefore it was a signal mark of royal favour when James II, in 1687, delegated to the East India Company the power of establishing by charter a municipality at Madras.'

Why should Madras have been the only presidency town to receive this mark of royal favour? Why not Bombay? The answer is simple enough: Madras, not Bombay, was then *urbs prima in Indis*.

The charter recites the approbation of the king, declared in His Majesty's Cabinet Council, and then goes on to constitute a municipality for Madras, on the lines of English municipalities. The Municipal Corporation was to consist of a Mayor, twelve Aldermen and sixty or more Burgesses. The Mayor and Aldermen

[1] *The Government of India* (*Historical Survey*), 1922, pp. 21–23.

were to have power to levy taxes for the building of a convenient town-house or guildhall, of a public gaol, and of a school house 'for the teaching of the Gentues or native children to speak, read and write the English tongue, and to understand arethmetick and merchants' accompts, and for such further ornaments and edifices as shall be thought convenient for the honour, interest, ornament, security, and defence' of the Corporation and of the inhabitants of Madras and for the payment of the necessary municipal officers including a school-master. The Mayor and Aldermen were to constitute a court of record, with power to try civil and military causes, and the Mayor and three of the Aldermen were to be Justices of the Peace. There was to be a Recorder, 'skilful in the laws and constitutions of the place,' to assist the Mayor in trying, judging and sentencing causes of any considerable value or intricacy. There was, moreover, to be a town clerk and clerk of the peace, 'an able and discreet person, who must always be an Englishman born, but well skilled in the language of East India, and who is to be esteemed a notary public.'

The following clause in the charter providing for the ornamentation of the Mayor and Aldermen shows how jealously the dignity of civic officers was guarded in those days :—

'For the greater solemnity and to attract respect and reverence from the common people, the mayor is to have always carried before him when he goes to the guildhall or other place of assembly, two silver maces gilt, not exceeding three feet and a half in length, and the mayor and aldermen may always upon such solemn occasions wear scarlet serge gowns, all made after one form or fashion, such as shall be thought most convenient for that hot country. The burgesses are, on these occasions, to wear white "pelong" or other silk gowns. Moreover, the mayor and aldermen are to have and for ever enjoy the honour and privilege of having

rundelloes and kattysols [1] borne over them when they walk or ride abroad on these necessary occasions within the limits of the said corporation, when they go to the guildhall or upon any other solemn occasion, they may ride on horseback in the same order as is used by the Lord Mayor and aldermen of London, having their horses decently furnished with saddles, bridles and trimmings after one form and manner as shall be devised and directed by our President and Council of Fort St. George.'

It will be seen that the system of local government embodied in this first municipal charter for an Indian city was of the approved English type. It owed its origin not to any attempt of the people to build up a system of self-government from the bottom, taking the ancient village community as the foundation, but to the will and pleasure of persons in authority steeped in the tradition of the English Constitution. It is but fair to recognize this historical fact in these days of political awakening when the Indian people find themselves engaged in a strenuous struggle to advance inch by inch along the path of self-government. Down to the middle of the nineteenth century all the privileges of local government were voluntarily and ungrudgingly conferred by wise and enlightened rulers on a docile and contented people, blissfully ignorant of the elementary rights of citizenship. Indeed it would not be an exaggeration to say that until the end of the last century these privileges were in many places thrust upon an apathetic public by government, not wrung from them by a self-reliant and self-assertive people.

How the bark of municipal government was steered in Madras is described in Love's *Vestiges of Old Madras*. Apparently the inhabitants of the city strenuously

[1] Umbrellas and parasols. See Yule and Burnell, *Hobson-Jobson*, s.v. Roundel and Kittysol. Kittysol or Kattysol is a corruption of the Portuguese *Quita-sol*, ' bar-sun,' i.e. sunshade.

resisted the imposition of a direct tax. The town hall, schools and sewers which were to have been the first-fruits of the new constitution, could not be undertaken. The Mayor and Aldermen had, therefore, to resort to indirect taxation and to ask for permission to levy an octroi duty on certain articles of consumption with a view to finding funds for the conservancy of the place. The President and Council assigned certain revenues to them; but finding that they were misapplied the President caused a stiff note to be addressed to the Mayor's court, with the result that the City fathers bestirred themselves in the year 1692 to obviate the cause of official complaint. The Town Hall was built with borrowed money and the Council thereupon assigned to them the 'Scavenger's duty' for the years 1695 and 1696, on condition that the conservancy of the town should be managed by the Corporation for that period. The headmen of the castes also made a contribution of 900 pagodas,[1] recovered from them in the shape of assessment. With this assistance, the debt on the Town Hall, which amounted to 4,000 pagodas, was wiped off.

Bombay city does not seem to have been jealous of Madras. There was no move on her part to be invested with the pomp and power of a Mayor's court. But whether she cared for it or not, in the year 1726 it was declared by the Crown by letters patent that Mayor's courts should be established in Bombay, Calcutta and Madras in lieu of the courts then existing at the three

[1] The standard coinage of Southern India under the Hindu régime was the gold Pagoda. The Hindu name was *Varāha* or Boar, because the early issues bore the figure of the Boar-avatār of Vishnu. The later types were stamped with the representation of an idol. Under the Naik's grant of Madras territory in 1639 the East India Company received authority to enjoy the privilege of mintage and the *Cowle* of Rajah Sri Ranga empowered the British to coin Pagodas with the stamp of the images of Krishna (Vishnu) with Lakshmi and Rukmani. The Pagoda was worth about 8*s*. 4*d*.

places. These new courts were to consist of a Mayor and nine Aldermen, seven of whom were required to be British subjects. The Aldermen were to be selected from the principal inhabitants of the place and they were to choose one of their number to be Mayor. The Mayor was to be elected annually, but the Aldermen were to hold office for life. Government reserved power to suspend Aldermen for grave misconduct.

On 10th February 1728, the new charter was read at the new pier to a large concourse of Europeans and leading Indian citizens. The President and Council, Sheriff, Mayor and Aldermen then took the oath of allegiance and the President made a speech pointing out the value of the new privileges. This is all the information that Forrest gives us of the Mayor's court. The reason why he is unable to throw more light on the subject is recorded in a brief footnote as follows :—

' After considerable search the Consultation Book containing an account of the day's proceedings was found, but the pages of the book have crumbled through damp into so many pieces that it is impossible to reproduce them. '

Mr. Malabari was, however, fortunate in discovering in the laws' lumber room in the High Court of Bombay the earliest minute-book containing the proceedings of the Mayor's Court. This book records the fact that the Court met in the Town Hall of Bombay, on 15th February 1728, when William Henry Draper, Esq., the first mayor, opened the proceedings with a short congratulatory speech upon the honour done them, at the same time acquainting the Aldermen there assembled that a speedy and exact distribution of justice was required of them in return. How the occasion was celebrated is not known. It may be presumed, however, from the following account given in ' Ledger and Sword of

the Honourable Company of Merchants of England Trading to the East Indies' of the ceremony which marked the re-establishment of the Mayor's court in Madras, where it had been in abeyance for some time, that a somewhat similar ceremony must have inaugurated its establishment in Bombay :—

'All the gentlemen appeared on horseback on the parade, moving in the following procession to the Company's garden house.

Major John Roan on horseback at the head of a company of Fort soldiers, with kettledrums and other music.

The dancing girls with the country music.

The Pedda Naik on horseback at the head of the peons.

The Marshall with his staff on horseback.

The Court Attorneys on horseback.

The Registrar carrying the old charter on horseback.

The Sergeants with their maces on horseback.

The old Mayor on the right hand and the new on the left.

The Aldermen, two and two, all on horseback.

The Company's Chief Peon on horseback with his peons.

The Sheriff with a white wand on horseback.

The chief gentry in the town on horseback.'

There is, however, nothing on record to show that the Court had anything to do with the management of local affairs. It was evidently intended to exercise only judicial functions. Civic administration then appears to have been wholly controlled by the President and Council. The proceedings of the court show that it was called upon to decide all sorts of cases. It was at once a civil, criminal, ecclesiastical, municipal, military and prerogative court and dispensed a kind of rough and ready justice based on common sense and broad principles of equity. A very interesting account of the divers cases brought before the court and its decisions is given by Mr. Malabari. These cases incidentally throw much light upon the customs and morals of the

people and the barbarity of the times, which was reflected in the appalling punishments inflicted by the courts on offenders.

There is a general belief that control of prices of food-stuff and other necessaries of life was introduced in India for the first time after the effects of the last war (1914–18) had rendered it inevitable. We, however, find from these old records that one of the multifarious duties of the court of judicature, the predecessors of the Mayor's court, was to regulate prices and give relief to dealers as well as consumers, whenever necessary. This was in keeping with the practice in vogue in England where the Justices of the Peace settled the prices of bread and regulation of wages.

In the year 1727, owing to dearness of wheat the bakers of the city were unable to make reasonable profits. They prayed for the intercession of the court on their behalf. Thereupon the Justices were pleased to pass the following order :—

'The bakers being called upon to give in a state of their bread, and pleading the high price of wheat being now twenty rupees P. Ca. by which they are great sufferers, the Court takeing this into consideration direct the Clerk of the Market to lower the weight of bread for the present from eight to seven ounces and continue the same till wheat becomes cheaper, and in the meanwhile charge the bakers to make their bread as white and light as the wheat will bear and to observe this better than they have lately done.'

Again, on 8th March 1743, the following orders were issued :—

'There being a want of grain for supply to the common people, it is directed that the warehouse-keeper issue to the Clerk of the Market as far as three hundred Morahs of Batty to be sold in the bazaar as the poorer sort of people may want (it), at the price it sells for at the Mandvie when imported, which

may prevent the purchasers of large quantities keeping it up at one high price.'

The situation appears to have been worse in the month of June of the same year, for on the 3rd of June another notification was issued enjoining more stringent measures :—

'As there is no other way to provide for subsistence of the poorest sort of people than by obliging those persons to give out of their stock, the Clerk of the Market is empowered to take from them what may be required for the supply of the Market, which he is to retail out, paying the owner the price it bears at the custom-house.'

On another occasion we find the court regulating the prices which Indian tailors should charge :—

'There being a general complaint of a great abuse in the prices that Black Taylors charge for their work on this Island, the following regulation was this day made in Court (the whole body of taylors being present and agreeing thereunto), and established as a standing rule for the future, viz.:

	Rups.	qrs.	reas.
Black Tafety Tannah Stuff or stuff coat, Wastcoat and Breeches	4	0	00
Cloth Camblet Padsway and Duroys Coat, Wastcoat and Breeches	4	2	00
Trim'd with Gold or Silver Thread without lace	6	0	00
Cloth Camblet Padsway, Coat, Wastcoat and Breeches, trim'd with half lace ...	7	0	00
Ditto, trim'd with whole lace ...	9	0	00
Wastcoat and Breeches of Silk ...	1	0	00
Gingham Wastcoat and Breeches ...	0	3	00
White Wastcoat	0	1	50
Sowing Silk for a plain Sute ...	0	2	50
Buckram Stay tape and canves ...	0	1	00
Fine Shirts Plaine each	0	1	50
Ditto Ruffled	0	2	00
To work in the house p. month ...	2	0	00

Before we close this chapter a brief digression is permissible to answer a question which the reader may be prompted to ask. Who was William Draper, the first Mayor of Bombay? No book of local lore gives any account of the holder of the illustrious office. All that the *City Gazetteer* tells us is that his salary was fixed at Rs. 500 a year, while the Aldermen were granted a monthly allowance of Rs. 12, which was subsequently raised to Rs. 14, to cover the expenses of attendance in court. The periodical statements of salaries due to the Honourable Company's covenanted servants given in the Bombay Diaries, however, afford us a clue to his official career. In the pay-sheet for the first six months of 1720 we find Draper mentioned as a writer on a salary of £5 per annum. On the 8th June of that year he was promoted to the rank of Factor on £15 per annum. The next step was the office of Junior Merchant to which he was appointed in November 1723. He then became Senior Merchant and was Chief at Gombroon, the modern Bunder Abbas, in 1727. The records of the Company of this period throw some rather unedifying sidelights on his character. In an entry in the Bombay Council's General Letter of January 1727–28, he appears as a fighter of a duel at Gombroon. According to the 'very disagreeable account' which had reached the Council of this fracas, 'Mr. Draper challenges and fights Mr. John Fotheringham, and after they were parted William Cordeaux joins with him to dispossess Mr. Draper, but were prevented by the soldiers adhering to their duty.' Draper, it was added, had suspended both his antagonists, but the Council thought it necessary to recall and suspend Draper himself. William Cordeaux, who was a 'loose, vicious person,' was detained in Bombay to be sent home by the first available ship.

The Gombroon episode, however, does not appear seriously to have prejudiced his prospects. When the Mayor's Court was established in Bombay in 1728 under the Royal Charter of 1726, he was appointed the first Mayor under the new constitution and allowed the salary of the Chief Justice, £62-10-0 per annum. The Diary for the year 1728 shows that Draper was re-elected Mayor for a further term of one year. Thereafter, we find him elevated to the Council of the Governor.[1] On 9th July 1731, we find him presenting a certificate of 'the measurage of a piece of ground part of that called Umbercarry situated near the Hill Vizarem productive only of grass containing according to the measure of the country thirty Barges,' valued at Rs. 24, and offering to pay the amount into the Honourable Company's treasury with a view to purchasing the ground for building a small house thereon. This proposal was agreed to. Whether the house was eventually built and what became of it is not known. In the Diary for 1735–36, the following entry appears:

'Mr. W. H. Draper being at present without any employment, directed that he receives charge of the Land Pay Office from Mr. J. Wallis to-morrow.'

The Diaries for the subsequent period show that he came into violent conflict with the Governor and other members of the Council on more than one occasion.

The first quarrel arose over the question of suspending the chief of the Factory at Surat, Lowther, for mismanagement. Draper dissented. In the heat of the discussions that ensued on the subject from time to time

[1] In the minutes of consultation of 17th August 1730, we find the following entry:—'By the decease of Mr. Arthur Upton there being a vacancy at this Board and Mr. William Henry Draper being the oldest of the Honourable Company's servants at present on the Island who has been recommended by our Honourable Masters and to whose capacity there is no objection Resolved that he be admitted a member of this Board.'

various aspersions were cast by some of the members of the Council against Draper and by Draper against them and even against the President. On 27th May 1736, the President acquainted the Board with the fact that he had been informed that Draper 'had discussed with Bomonji Rustomji in a manner at least very improper for a member of the Board, in revealing things which pass in council and ought not to be talked of abroad.' The substance of the discourse was laid before the Board which showed that Draper had repeated to Bomonji the reflection he had before cast on the President. Draper denied having in any way cast any reflection on the President, whereupon Bomonji was sent for and he deposed that Draper had informed him of certain proceedings of the Council and had said that 'Governour Horne was an easy, good-natured man and was led by Mr. Braddyll and Mr. Lambton, or things would not have been carried this length.' Then followed an impeachment of Draper by Braddyll who submitted to the Council on 28th May 1736, the following protest against Draper's conduct:—

'That William Henry Draper has cast base, unmannerly and injurious reflections not only on the Hon'ble Company, his Masters and Employers, but also on the Hon'ble the President and other members of the Board, publicly arraigning their conduct whilst in the performance of their duty, that contrary to his oath and duty as a company's servant he prefers the private interest of his relation Mr. Lowther to that of his Hon'ble Employers, supporting the said Lowther and his Accomplices in crimes of the highest nature in spite of all proof and conviction. Lastly, he has taken upon him to justifie Lowther in basely deserting his Country and Colours, by refusing to protest against him and such as are concerned in his Escape. I am in Duty bound to protest against Mr. William Henry Draper (which I hereby accordingly do) for all damages my Hon'ble Masters may sustain from his unfaithful and unwarrantable Behaviour as before related, submitting the censure that is

due to such Procedure to the determination of this Hon'ble Board who have sufficient authority to exclude from among them such unfaithful and unworthy members.'

Thus were Draper's relations with his colleagues strained from day to day. The last controversy which wrecked his official career revolved round a broker "Juggernaut" who on 17th March 1737, was confined in the Fort for non-payment of debts. In this case also Draper dissented. The case appears to have been reported to the Directors and in pursuance of orders received from England, Draper was suspended from service pending further orders. He, thereupon, agreed to withdraw from the Board and applied for 'such allowances agreeable to standing orders relatively to such persons in his case.' By a resolution passed on 29th July 1737, the Council declined to entertain any such application as a matter of right, but at the same time it sanctioned the payment of certain allowances as 'a matter of compassion.' Thus disappeared from the stage the first Lord Mayor of Bombay, unhonoured and unsung.

Further interesting light is thrown on his life and character by the author of *Sterne's Eliza*. Eliza was the wife of Daniel Draper, the son born to William Draper in 1726. It appears from this account that the Drapers, like the Whitehills, were a well-known family in India. Early in the eighteenth century there were three permanent officials of the name in the service of the East India Company: Joshua, who went out to Madras in 1715 and became a Member of Council in that Presidency; Ingleby, the father of the famous General Sir William Draper, who served in Bombay; and William Draper. The last named, according to the same account, was 'a man of considerable prominence in the Company's service in Western India, a typical specimen of the

free-living, money-seeking official of his day.' About this year 1737 Draper figured in the will of a woman named Elizabeth Vachery, 'widow and relict of Captain Joseph, late of Bombay.' After bequeathing to her slave girl, Clara, 'all her joys[1] and wearing apparel and her freedom and liberty' she devised the residue of her estate to 'Mr. Charles Whitehill, Chief of Mahim, and Captain Samuel Walker, of Bombay, for the benefit of her dear adopted son, Philip Pilgrim,' a child given to her deceased husband by 'William Henry Draper, of Bombay, Esquire.' She desired that the executors should see the child educated and brought up as they should think proper, and on his arriving at a fit age 'put him out as apprentice,' but (the will proceeded) in case it should happen that the mother of Philip Pilgrim, or Mr. Draper, his reputed father, should at any time give them any trouble about his education or up-bringing, the legacy was to be null and void. What ultimately happened to this interesting charge is not known. Nor is any further information available concerning William Draper.

[1] Jewels, from the Portuguese *joia*, a word in common use in India up to the beginning of the nineteenth century. Maria Graham (*Journal of a Residence in India*) writing in 1810 speaks of the occasional murder of children in Western India 'for the sake of their ornaments or *joys*.'

CHAPTER VII

A CENTURY OF LOCAL GOVERNMENT BY THE GOVERNOR IN COUNCIL

THE records of the Mayor's Court throw little light on the civic administration of the city, but from scattered references to municipal matters in the early history of British rule in the city we find that the urban administration of the town was conducted by the officers of the East India Company under the direct orders of the Governor or the President and the five senior members of the Council, who were Justices of the Peace under the charter of 1726.

In an earlier chapter we have reviewed the civic administration of Government during Gerald Aungier's time. During his régime the population increased from 10,000 to 60,000. This influx of population, however, engendered unhealthiness and disease; so that, if we accept the estimate of Richard Cobbe, the population of the town declined to 16,000 in the year 1718. It is probable that internal feuds and external aggression scared away a portion of the population, but there is no doubt that the deadly climatic conditions of the island were mainly responsible for this large reduction in the number of its inhabitants. What was by nature designed to be one of the pleasantest spots in India seemed to be no more than a parish graveyard, when the Rev. F. Ovington, Chaplain to His Majesty the King, visited the City in 1689 *en route* to Surat. We may allow the worthy Chaplain to relate his tale of woe in his own vivid words:

'Indeed, whether it be that the air stagnates (for the land towards the Fort lies very low), or the stinking of the fish which

was used to be applied to the roots of the trees instead of dung, or whatever other cause it is which renders it so very unhealthful, 'tis certainly a mortal enemy to the lives of the Europeans. And as the ancients gave the epithet of Fortunate to some islands in the West, because of their delightfulness and health, so the modern may, in opposition to them, denominate this the Unfortunate one in the East, because of the antipathy it bears to those two qualities.

'We arrived here at the beginning of the rains, and buried of the twenty-four passengers which we brought with us, above twenty, before they were ended, and of our own ship's company above fifteen: and had we stayed till the end of the next month October, the rest would have undergone a very hazardous fate, which by a kind Providence ordering our ship for Surat's River-mouth, was comfortably avoided. A fortunate escape, indeed! because neither the Commander nor myself were in any hopes of surviving many days; neither temperance, the most sovereign medicine, nor the safest prescriptions in the physical art, could restore the weakness of our languishing decayed natures. And that which thoroughly confirmed to us the unhealthfulness of the place we had lately loosed from was the sudden desertion of our diseases, and return to health before half of the voyage to Surat, was finished; in the middle of which passage we manifestly perceived in our bodies as evident an alteration and change of air for the best, as our palates could distinguish betwixt the taste of wine and that of water.

'The Deputy Governor, Mr. George Cook, a pleasant and obliging gentleman, solicited me, upon the account of my function, to reside with him upon Bombay, and invited me, with all the proposals of a frank and generous civility, to wave my voyage and continue with him there, because they were destitute of a minister. And indeed the deference I bore to such kind expressions, and to the duty of my calling were invincible arguments for my stay, had I not been satisfied of the immediate infallible sad fate I was under, like that of my predecessors, one of whom was interred a fortnight before this time, and three or four more had been buried the preceding years, which common fatality has created a proverb among the English there, that two munsouns are the age of a man. This is much lamented by the East India Company, and puts them upon great expences for supplying the island with fresh men in the room of those that

are taken away, and providing able surgeons, furnished with drugs and chests from Europe, to take care of the infirmaries and all that are sick.

'The prodigious growth of vermin and of venomous creatures, at the time of the munsouns, do abundantly likewise demonstrate the malignant corruption of the air, and the natural cause of its direful effects upon the Europeans; for spiders here increase their bulk to the largeness of a man's thumb, and toads are not of a much less size than a small duck; whereby it is easily seen by these venomous creatures, what encouragement these infectious and pestilential qualities meet with in this place, and under what a contagious influence all the inhabitants must consequently be seated. This induced a gentleman one time in the Governor's and my company, and some other persons of note, to affirm that he believed it rained frogs, because he espied upon his hat small frogs about the bigness of the end of one's finger when he was at a great distance from any house or covering from whence they might drop.

'All wounds and contusions in the flesh are likewise very rarely healed here; and if they are, it's with difficulty and extraordinary care; they happen generally to be very dangerous, and the cure admits of more delays and hazards in the healing than what is usual in other parts. But the corruption of the air has a more visible and immediate effect upon the young English infants whose tender spirits are less able to resist its impressions, so that not one of twenty of them live to any maturity, or even beyond their infant days. Were it otherwise, the island might in time be peopled with the Europeans transmitted thither, as the Western Islands are, which belong to the Crown of England.'

According to Fryer's account, 'fluxes, dropsy, scurvy, barbiers or loss of the use of hands and feet, gout, stone, malignant and putrid fevers,' were the prevailing disorders which made the Island, once dubbed by Heitor de Silveira 'The Island of the Good Life,' a charnel-house for its ill-starred inhabitants. 'More prevalent and terrible than all,' says Edwardes, 'was a disease known as "the Chinese death" (*mort de chine*), a corruption of the Portuguese, *Mordisheen*,

which is derived from the Marathi *Modné*, in allusion to the intestinal agony which characterised its attacks.'[1]

As if this was not enough, a plague devastated the Island along with other places in Western India during the closing years of the seventeenth century.[2] 'We have abundance of men sick and many of them die,' wrote the Bombay Council to the Directors of the East India Company. 'We are finishing the account of His Majesty's ship *Phoenix*, but by reason of some of her men lying sick in the hospital, and we know not how God will deal with them, cannot close the account to send up, which, as soon as we can, shall be done.'

Death laid his hands upon patient and physician alike. In the death of Dr. Skinner Bombay lost the only physician there was on the island. The Council thereupon resolved 'to entertain Mr. Bartlett in the said station, allowing him £4 a month to be paid in Xeraphins, at 20*d.* to the Xeraphin, according to the custom of the island, together with the same allowance for his diet as Dr. Skinner was allowed, and the usual assistance belonging to the hospital.'

Lest one should think that the council was very niggardly in estimating the worth of the medical men in its employ, it is necessary to observe that in Gerald Aungier's time the doctor's salary was not even £3.

[1] Dr. John Fryer was surgeon to the East India Company. He came out to India with the fleet of 1672 composed of ten ships, one of which was named *Bombaim*, Fryer's ship being *Unity*. His *New Account of East India and Persia* was published in London in 1698.

[2] It probably was bubonic plague. This pestilence broke out in the Punjab early in 1616 during Jahangir's reign and was raging in Agra in 1619. Another outbreak, clearly bubonic in character, occurred in Aurangzeb's camp at Bijapur in 1689 (see Edwardes' edition of Grant Duff's *History of the Mahrattas*, vol. i, p. 274n). The disease was certainly endemic or locally indigenous in certain places in India and for the presumption that the pestilence which devastated Bombay during the closing years of the seventeenth century was bubonic plague we have the further testimony of Dr. Gemelli Careri, who visited Bassein in 1695 and described the disease as 'exactly like a bubo, and so violent that it not only takes away all means of preparing for a good end, but in a few hours depopulates whole cities.'

The following extract from the memorable Surat letters (21st April 1676) shows in what esteem the services of the medical officer were held and how stern the Council was in matters of discipline:—

'Mr. John Fflatman now going for Bombay, wee write you these few lines to accompany him. He hath made earnest applications to us for the advancing of his salary to £3 per month, and allowing of him his dyett and lodging out of the Fort, in regard to his constant imployment with his patients will not admitt his taking of it there. But though wee have regard to his meritts, good service and diligence in his imployment yet wee have not thought good to gratifie his request, partly because wee held it inconvenient to encourage any persons belonging to the Island to make their address hither, for thereby men are apt to forget their respect and dependence they ought to have on the Deptie Govr. and councell wch. by noe means we shall admitt off, and partly in regard or. affaires here will not give us leave to be troubled with such impertinencies, nor did wee care to innovate anything as to wages or increase of charge, least it produce evil consequences. On these considerations wee have suspended Doctor Fflatman's request, and refer it wholy to you, wch. being modest you may grant, seeing you are satisfied with us that he well deserves or. favour; but wee would have you give noe incouragement to persons to come hither hereafter; but if they have any reasonable request to make, let them first signifie them to you, and if you judge them worthy of Or. knowledge you may communicate them to us.'

The opening years of the eighteenth century witnessed no change for the better in the city's health. In January 1706 Sir Nicholas Waite complained: 'We are only eight covenant servants including the Council and but two that write, besides two raw youths taken ashore out of ships, and most of us often sick in this unhealthful, depopulated and ruined Island.' This was followed by a message couched in still more despondent terms: 'We are six including your Council and some of us often

sick. It is morally impossible without an overruling Providence to continue longer from going under ground if we have not a large assistance.' Again, in January 1707 he wrote: 'My continued indisposition and want of assistance in this very unhealthful island has been laid before the managers and your Court. Yet I esteem myself bound in gratitude and I will briefly inform what material occurs till I leave this place or the world.' That overbearing and much-disliked Governor, who contrived to offend almost everyone with whom he came in close contact, had, however, to leave Bombay before he took leave of the world; for his services were dispensed with in the following year.

What, it may be asked, was the reason of the extreme unhealthiness of the Island? One of the principal reasons was the silting up of the creeks which divided Bombay into a group of islets. At high tide the advancing sea swept through the breaches, 'with all the fury and pleasure of an Arabian colt,' covered the surrounding land with water and 'laid a pestilential deposit which at low tide exhaled mephitic and deadly vapours.' The Court of Directors was not oblivious of the fact that these malarious swamps seriously jeopardized the health of the inhabitants. Nor was it, even in those early days, ignorant of the measures necessary to cope with the evil. The latest volume on English Local Government (*Statutory Authorities for Special Purposes*), with which Mr. and Mrs. Sidney Webb complete their monumental work on the local institutions of England from the seventeenth to the nineteenth century, gives an illuminating account of the archaic Courts of Sewers established in that country for the protection and drainage of the lands similarly affected. It is difficult to conceive, in these days, the extent to which the England of the Middle Ages was made up of 'huge, great and vast fens and

marishes.' Nevertheless, it is true that a very large portion of the kingdom of Elizabeth and James I remained little more than 'vast spreadings of water' forming during nine months of the year an almost continual level of 'drowned lands,' infested with malarious vapours and clouds of insects; 'good for nothing but fish and wild-fowl,' its half submerged islets and bordering lands inhabited by an enfeebled and brutalized amphibious race of 'breedlings' or 'fen-slodgers, half fishermen and fowlers and half commoners, keeping geese and cutting reeds in the summerlands of the fen.'

To render such areas serviceable and salubrious involved the construction and maintenance of ditches, gutters, gates and sewers. Every low-lying part of England seems to have had primitive forms of communal co-operation for land drainage, and the exigencies of different times and places led monarch after monarch to issue special temporary commissions appointing 'Justices of Sewers' and 'Juries of Sewers' to enquire into the needs of different districts, to discover what particular persons were liable, according to ancient custom, to execute repairs or to contribute to the common charges and to settle the innumerable disputes that arose. The local organizations and customs, spasmodically interfered with and controlled by casual Justices, were partly fortified and partly superseded by a series of Parliamentary enactments which culminated in the Statute of Sewers of 1532. This enactment definitely established the authority of the King's Commissioners of Sewers and of the Court of Sewers held by them, and formulated for all parts within the realm a fixed constitution and procedure.

It will be seen from this interesting account of the early efforts of the British nation to reclaim drowned lands that, when the Board of Directors of the East

India Company were confronted with the problem of the submerged portions of Bombay, they had a considerable store of English experience to guide them. They were then living in an age of 'Adventurers' encouraged by royal charters and monopolies. Under the patronage, first of King James and then of King Charles, successive associations of 'undertakers' had embarked on various engineering schemes for the reclamation and drainage of the 'surrounded' or drowned lands of the Fens, stimulated by the grant in fee simple of a large share of the lands. It is, therefore, easy for us to understand why the Court of Directors incessantly impressed upon the President and Council in Surat the need for stopping the breaches and for draining and reclaiming the overflooded ground. 'Redeem those drowned lands of Bombay,' they wrote in 1684, 'for which we shall now propose you a method which, we think, cannot fail. That is, you may agree to give the undertakers every Saturday night a day and a half's pay for every day's work for every man they shall employ in that service, part money and part rice; the rice at a price by which we may be a little gainers.' In another despatch that soon followed they reiterated their previous counsel for undertaking drainage works. 'Prosecute with effect the draining of our overflooded ground at Bombay, as we wrote you last year.' In later despatches also we find the Court directing the Bombay authorities to 'stop the breaches on any tolerable terms,' to induce men to undertake the task by granting them leases of land so reclaimed, and to send to Karwar, if necessary, for 'people well skilled in stopping breaches.' The Court also ordered the Council to issue orders prohibiting the 'buckshawing' or dunging of the toddy trees in the Mahim and Worli woods with putrid fish and to allow the free perflation of the westerly breeze by thinning the woods.

Accordingly, in 1708, fish manure was prohibited.[1] Steps were also taken to reclaim the drowned lands. A causeway was built from Sion to Mahim. Early in 1720 Captain Bates drew up a scheme for 'stopping the Great or Mahalakshmi Love Grove Breach.' By an order of the Council of 13th May 1720, the scheme was referred to a committee of four members of the Council for report. The Committee reported on 24th May that they had examined the scheme for the great breach of water with the assistance of four experts, Major Vane, Captain Johnson, Captain Ingram and Captain Hamilton, that all the experts except Captain Johnson were of opinion that 'the only sure and least expensive method for completing this great useful work' was by the means and manner proposed by Captain Bates, and that they accordingly recommended the scheme. What strikes one as very remarkable in perusing this report is the promptitude with which the Committee investigated and reported on the scheme. The Council was equally quick in coming to a decision. On the very day the report was submitted it held a meeting, and 'after some discussion it was agreed that as it had been too often recommended to us by our Hon'ble masters and will be of the greatest advantage to them when completed, we set about it as soon as the season will permit.'

By the end of the year a dam had been constructed across the great Breach and a considerable area of marshy ground had been drained. The work was carried

[1] Complaints of the nuisance caused by fish manure were, however, voiced for many generations after this. For example, Miss Emma Roberts wrote in *Notes of an Overland Journey through France and Egypt to Bombay* (published in 1841): 'The abundance and cheapness of fish (in Bombay) render it the common food of the lower classes, and consequently its effluvia sometimes pervades the whole atmosphere. The smell of frying fish, with its accompaniment of oil, is sufficiently disagreeable; but this is not all; a much more powerful odour arises from fish drying for future use, while, as it is commonly spread over the fields and employed as manure, the scents wafted by the breezes upon these occasions breathe anything but perfume.'

on until 1727 when the Directors, probably tired of the perpetual warfare with the waves, asked that all further operations should cease. These orders were a source of great embarrassment to the Council. We find from the minutes of a consultation held on 14th June 1728, that some of the largest facing stones were washed away. To take or not to take protective measures, with a view to preventing further damage, was a question of some perplexity. If in spite of orders prohibiting further expenditure on the work they spent more money and if by any chance their endeavours should prove fruitless, what would be their position? Eventually, however, the Council came to the conclusion that they must take steps to stop further damage, as will be seen from the following extract from the proceedings :—

'Which objection being answered by considering that our Hon'ble masters can never mean such orders to be positive where complying with them must tend so vastly to their prejudice as neglect of preserving this work will be. It is, therefore, resolved that such an expense be continued as may be thought necessary for its preservation.'

(The page of the diary being torn, it is not possible to quote the resolution in full.)

The dam erected in those years was not, however, strong enough effectually to check the inrush of the water. It was then, therefore, that the Vellard[1] had to be built during the governorship of William Hornby, which welded together the eastern and western shores of the island and gave Bombay the Flats which have since been converted into recreation grounds. A pleasant legend is associated with the history of the construction of this causeway. The story runs that during the era of Moslem domination the goddess Mahalakshmi was so rudely persecuted that she leapt from the shore into the Worli creek. In this creek she remained in

[1] Portuguese *Vallado*, a fence.

hiding until after the Portuguese had ceded the island to the English. When the work of constructing the dam was started, a stern struggle arose between the hand of man and the hungry surges of the sea. The work was continually interrupted by the inrush of the waves and a good deal of money was wasted in what seemed to be fruitless endeavours to check the force of the tides. At this juncture the goddess appeared in a vision to a contractor, Ramji Shivji, a Prabhu by caste, and promised that if he tendered his services to Government for the construction of a causeway she would remove all obstacles, provided he first raised the images of herself and her two sister goddesses from their watery resting places and installed them in a suitable shrine on land. Ramji acted according to these instructions and eventually, after the dam had been built successfully, he obtained from Government a grant of the site upon which the temple still stands. The proximity of this new temple to the Moslem shrine of Mama Hajiyani (Mother Pilgrim) appeared to the popular mind to signalize Hindu-Moslem unity under the aegis of the British Government. 'Under British rule,' ran an old saying, 'Mama and Mahalakshmi have joined hands.' In other words, the old animosity between Musulman saints and Hindu gods had disappeared. Alas for the breach that has since been caused between the two communities! It requires the ingenuity of several Bates to stop that breach.

Thanks to these efforts of the merchant-rulers, the island was once more made habitable and new lands were rendered available for cultivation. Further, internal feuds were laid at rest, the Company's fortifications were strengthened and law and order was restored. Consequently a fresh tide of immigration set in. By the year 1730 the population of the island had outgrown

the limits of the Fort. Fresh building sites within easy distance of the wharf and warehouses were in demand and the policy of breach-stopping and reclamation was amply vindicated.

The historians of this era are silent about the machinery in vogue for carrying on the municipal affairs of the city, but we find from the diary for the year 1731 that even at that early stage people were not allowed to build houses haphazard. On the 3rd December of that year it was resolved :

> 'That all persons that have a mind to build apply to the land paymaster and signify to him in what part of the town and what sort of a house they design to build, and on the Paymaster being satisfied that a spot of ground is proper situation for such a house, he is to grant them his license for building and receive as fee for the same Rs. 2 and no more, provided the said house is built with stone and mortar and covered with tiles, and for such houses as are covered with cajans, Re. 1, and upon any of the inhabitants applying to the Secretary for a lease or a certificate to ascertain their title to the house to be built by license of the Paymaster, he is to grant them such a lease or certificate for the same on paying him Re. 1 and no more.'

In 1746 we find Messrs. Rawdon and Saunders appointed 'to allot proper spaces of ground to such of the inhabitants as may be inclined to build in the town.' Houses soon sprang up on the sites thus rendered available. Evidently, no building bye-laws were prescribed or enforced. The result can well be imagined. Four years later, Grose described 'the houses of the black merchants' in the town, which was about a mile in circuit, in the following words : 'Most of these merchants' houses were ill-built and incommodious, with small window lights and ill-arranged rooms. Even the best have a certain air of meanness and clumsiness.' Certain building regulations were promulgated in 1748,

designed to minimise the danger of fires among merchants' houses and warehouses, but as yet we hear nothing about ventilation. The town was allowed to be choked with houses built higgledy-piggledy. Numerous encroachments on main roads made matters worse. The following notification was, therefore, published in 1754 by beat of drum and affixed at the usual places:

'Whereas, several of the inhabitants have made encroachments on the high roads by erecting buildings, sheds, etc., without license obtained, in contempt of the Government, the said President and Governor, by and with the advice and consent of his Council, has thought proper to ordain and direct that all cajan and palm-leaved sheds and pent-houses be pulled down till the monsoon set in, when liberty is to be obtained for refixing such as are necessary, and which are to continue till the breaking up thereof and no longer. That all pent houses made without leave and that appear encroachments in the street, though tiled, be pulled down. That no houses, walls, compounds or sheds be erected in future within the Town Wall, before a certificate is granted by the (town) committee under their hands for that purpose. When liberty is given for building a house, they must set about it in twenty days, and no stones, chunam or other materials to lay longer in the public streets than ten days before erecting the same. All *gramalook* (prickly-pear, *Grao maluco*) hedges within the Town Wall to be dug up by the roots, especially those round the ramparts. That the name of every person purchasing a house within the walls be entered in the Collector's offices before he enters in the premises, as it is now difficult to recover the ground rent thereof, or to know the real measure of each house, few of the present possessors' names agreeing with the rent rolls.'

In pursuance of this order a large number of buildings were demolished. There was a fresh demand for building sites. The Collector, therefore, wrote in 1757: 'Several of the proprietors of the houses were pulling down by your Honour's orders just without the Bazar Gate have lately applied to me for ground to rebuild.'

The ultimate result was a redistribution of the population over a wider area rendered habitable by partial reclamation. Fresh means of communication were provided. Land was taken up for a public road from Parel to Sion. A road was also built 'from Church Gate to the Black Town, carried very near its full length of 360 yards' and a 'branch from this road leading 672 feet to the English burying-ground.' The burial-ground referred to was Sonapur 'in a cocoanut garden near the water side at the nether end of the Moormen's old burying-place, which from the year 1760 was utilised for the interment of the English dead in place of the historical Mendham's Point.'[1]

Next to the Land Paymaster, one of the oldest municipal officers we meet with in the records is the Clerk of the Market. The council's proceedings of 7th June 1731, record the fact that the office of Clerk of the Market, which fell vacant on the death of John Ingram, was conferred on John Wallis, the Coroner, in whose place James Stuart was appointed.

It appears that there was only one Market in the city. Being anxious to promote the comfort and convenience of the inhabitants, the local authorities then bestowed much attention on the supervision of the Market and the regulation of the prices of foodstuffs. We have already referred to some of the notifications on the subject. The 'Modis' (grocers) protested strongly against any reduction of the prices stipulated in their former agreement, but the Council was adamant. It took its stand on 'the present course of the markets at this place' and the latest 'price-current received from Surat,' and made it quite clear that 'the people were not to be starved out of the island for the private benefit of a few victuallers.'

[1] Edwardes, *Rise of Bombay*.

The conservancy of the town also received special attention. From the minutes of proceedings of the Court of Terminer and Oyer, held on 16th August 1745, we find that the Justices were dissatisfied with the conservancy of the town. It was therefore 'agreed that the office of the Scavenger should be abolished and that the clerk of the market see to it the inhabitants clean the streets before their respective doors.' Failing compliance with this requisition they were to be punished with a fine. It appears, however, that this experiment was not a success and that the office of Scavenger was soon reinstated. In the minutes of the proceedings of a consultation held on 18th November 1757 by the President and his Council we find the following entry:—

'The town having become very dirty and which we believe is in a great measure owing to the little regard the inhabitants in general pay to the Scavenger, on account of his being always a junior servant, it is agreed that a member of the Board be appointed to that office and that all houses within the town be proportionally taxed for maintaining a sufficient number of labourers, carts and buffaloes for keeping the town clean.'

The apostolic heir and successor to the office of the Scavenger is the Executive Health Officer. It may be hoped that the sins of the previous generations in underrating the importance and worth of his office have been wholly expiated by the calm resignation and utmost deference with which the citizens of Bombay have for the last sixty years allowed the Health Officer to lead them from the cradle to the grave.

The office of Scavenger appears to be one of the most ancient civic offices. Neither in the published nor in the unpublished annals of Bombay do we find any reference to it before the year 1745, but the old records of the sister city of Madras throw very useful light on the subject.

'The first attempt at conservancy,' says Love in his *Vestiges of Old Madras*, 'was made in 1678 by Streynsham Master. The Council resolved to impose a house-tax for this purpose and to create the office of "Scavenger." The earliest incumbent was the "Scriven of the Choultry," but after a short interval, it was not considered derogatory to the dignity of the Civil Service to appoint a senior covenanted servant to the post. Later, the Scavenger combined with his primary function the duties of the "Rentall Generall," or officer for collecting the grant rents, and for nearly a century the double appointment was held by a civil servant of high status. This arrangement created the impression that the duty of the Scavenger was to collect the cash and not the dirt. The learned authors of Hobson Jobson contribute a long article on the office. They confess that the discovery that such an office was filled by a Senior Civilian imparted a shock and they suggest that the term "scavenger" had then the now obsolete meaning of "an Inspector of Goods subject to Duties."' The foregoing extract from *Vestiges of Old Madras*, however, shows that the office, as originally created, was directly connected with the cleansing of the streets.

Since 1757 the health of the public appears to have received the constant attention of Government. During the critical closing days of the seventeenth century, when two monsoons were taken to be the age of a man in Bombay, the public had nothing between them and the Angel of Death except a medical man on £4 per mensem.[1] In the middle of the eighteenth century we find three large hospitals established in the island, one within the gates for Europeans and another on the

[1] See Edwardes, *Rise of Bombay*, p. 123.

Esplanade for Sepoys or native troops in the Company's service, and a third at Colaba for convalescents.[1] About this time also systematic efforts were made to stop the ravages of small-pox. 'Mr. Farmer,' says Dr. Hovè, the Polish savant who visited Bombay in 1788, 'has inoculated about thirteen hundred old and young, out of which he did not lose more than two. This has remarkably abated the small-pox.' In 1803 we find the Bombay Government forwarding to the Court 'twenty copies of a pamphlet recently published at this Presidency by Dr. George Keir of your medical establishment, containing an account of the introduction of the cow-pox into India' and adding that 'the zealous exertions of that gentleman have proved a principal means of securing the blessing of the discovery to this island.'[2]

In the year 1770 the Chief Engineer represented that the Kolis' houses on the ridge of Dongri Hill must be immediately removed. Two years later a notice was issued requiring that the shops to the south of Church Street, which had become a great nuisance, should be removed to the bazaar. It was ordained, moreover, that 'in future no shop must be permitted to the south of the north side of the Church Street.' Another requisition was issued for the demolition of 'small houses at present occupied by hamals and other indigent people between the Church and Bazar Gates.' Permission was refused to allow cocoanut plantations to remain within the town walls and the proprietors of such lands were ordered 'to let them out for house building.' The owners affected by these orders submitted protests and petitions, but to no purpose.

At a consultation held on 25th February 1772, a petition

[1] For the early history of medical institutions see *Bombay City Gazetteer*, vol. iii, p. 180ff. The first hospital was opened in 1677. A new building was erected near the present Government Dockyard in 1733.

[2] Edwardes, *Rise of Bombay*, p. 225.

was read from Raghunath Ballajee, Purvoe and owner of a house in Church Street, representing that he had nearly completed rebuilding the house when the Committee of Surveys put a stop to it, and requesting permission to complete it. With reference to this petition the committee informed the Board that they had stopped the building operations only till they could examine whether there were any orders against the 'black proprietors' rebuilding their houses in that street, but that they found there were none. It was therefore agreed that the petitioner be permitted to complete his house. At the same meeting, however, the following order was passed :—

'There is great want of ground within the town walls for Europeans to build, and the Church Street being a very proper place for that purpose, Resolved that the present proprietors be positively prohibited repairing them in future which we hope will be a means of inducing them to sell to Europeans on reasonable terms. The Secretary will issue a proclamation to the above purport.'

In the same year an accurate survey of the whole island was agreed upon in order that 'the situation of the farmed out villages, namely, Malabar, Sion, Parel, Matunga, Dharavi, Naigaon, Vadala, Mahim and Bamancally, and of all the Honourable Company's oarts and grounds may be exactly laid down, as well as those of all persons whatsoever.'

The town proper was thus gradually cleared and a new town began to rise to the north of the Bazar Gate. The Esplanade also underwent great changes. It was levelled in 1772, extended to the distance of 800 yards and cleared of all buildings and rising grounds in 1779. There was a further extension of 200 yards and buildings on it were strictly prohibited. 'It is very improper,' wrote the Board, 'to erect buildings thereon, which

may in a short time be again pulled down ; some other accommodation must, therefore, be found for the first battalion of Sepoys.'

Many other details testifying to the gradual improvement of the island and of its internal administration may be mentioned, were it not that a recital of such details would be beyond the scope of this book. One important dispatch of the Board, however, deserves special notice. ' Orders must be given,' counselled the Board in 1777,

> ' for cleaning the town ditch in the most effectual manner, and 1,500 men must be immediately raised for this service, who must be employed upon the fortifications until the proper season arrives for setting about the other work. And as the common sewers which are discharged into the ditch make the water very offensive, and we are inclined to think must affect the health of the inhabitants, it is further ordered that estimates be prepared of the expense of making sewers to discharge themselves into the sea, which, in every respect, must be preferable to the present ones.'

Insanitary houses in and outside the Fort were demolished and sand-hills between the burial-ground and the hospital for sepoys were removed. Among the measures for the promotion of the comfort and convenience of the people may be mentioned the provision of two separate markets in two large sheds, ' one for meat and fowls, the other for fruit and greens,' and the establishment in 1776 of a regular ferry service between Thana and Bombay which facilitated communication between the two islands. Such progressive measures improved the amenities of the Island very considerably and attracted various communities from distant parts of the country, so that by the year 1780 the population numbered 113,726. Parsons, who visited Bombay in 1775, has left the

following description of the town as he then found it: [1]

'The town of Bombay is near a mile in length from Apollo Gate to that of the Bazaar, and about a quarter of a mile broad in the broadest part from the Bunda (Bundar) across the Green to Church Gate, which is nearly in the centre as you walk round the walls between Apollo and Bazaar Gate. There are likewise two marine gates, with a commodious wharf and cranes built out from each gate, beside a landing place for passengers only. Between the two marine gates is the Castle properly called Bombay Castle, a very large and strong fortification which commands the bay . . . Here is a spacious Green, capable of containing several regiments exercising at the same time. The streets are well laid out and the buildings so numerous and handsome as to make it an elegant town. The soil is a sand, mixed with small gravel, which makes it always so clean, even in the rainy season, that a man may walk all over the town within half an hour after a heavy shower without dirtying his shoes. The Esplanade is very extensive and as smooth and even as a bowling-green, which makes either walking or riding round the town very pleasant.'

The ill-built and ill-arranged houses of the 'black merchants' had also given place to delectable residences, as may be gathered from the following observations made by Forbes, who was in India between the years 1776 and 1784, in his *Oriental Memoirs*:

'The houses of the rich Hindoos and Mahometans, are generally built within an inclosure, surrounded by galleries, or verandas, not only for privacy, but to exclude the sun from the apartments. This court is frequently adorned with shrubs and flowers; and a fountain playing before the principal room, where the master receives his guests; which is open in front to the garden, and furnished with carpets and cushions . . . The large bazar, or the street in the black town, within the fortress, contained many good Asiatic houses, and shops stored with merchandize from all parts of the world, for the Europeans and natives.

[1] *Travels in Asia and Africa.*

These shops were generally kept by the Indians, especially the Parsees; who, after paying the established import customs, were exempted from other duties.'

Compare this fair picture with that drawn by Grose in sombre colours only twenty-five years previously! A glance is sufficient to indicate the progress made during the latter half of the eighteenth century.

Still more creditable achievements in respect of building operations remain to be recorded. In the year 1787 a special Committee was appointed,[1] consisting of the Land Paymaster, the Collector and the Chief Engineer, 'to examine the private buildings which natives were erecting, and decide how far they might prove prejudicial to public works and the general health of the inhabitants.' The Committee pointed out that in the absence of any restrictions respecting the height of houses, the confined extent of their ground had 'led many of the black inhabitants to raise their houses to so great a height as may be injurious to the healthiness of the town.' 'It has likewise been unfortunate,' observed the Committee, 'both for the coolness and the appearance of the town, that little attention has been given to the breadth of the streets, and to keeping them as much as possible straight cutting each other at right angles.' Several suggestions for improvement were made by the Committee and approved by Government, viz., that the principal street of the town should be enlarged to fifty feet, the cross streets to twenty-five feet, and the lanes or 'galis' to fifteen feet; that no 'native house' should exceed thirty-two feet in height, 'from the terreplein to the eaves;' that all shop-projections should be removed, 'as being

[1] This was probably the result of the very strong protest made by the Grand Jury at the Sessions of April 1787, against the dirty condition of the town and the inefficiency of the Police. (See Edwardes, *Bombay City Police*, p. 14.)

positive encroachments on the streets, and receptacles for every kind of filth and nastiness;' that every house-holder should be compelled to clean daily the part of the street opposite his dwelling-house; that any house-holder 'allowing dirt to remain in the street opposite his dwelling-house' should be fined; and that 'the piling of goods on the green or any other open area within the town should be restricted to particular kinds of specified goods.'

As there was no efficient agency for enforcing such requirements, the Committee, following the lead of the Grand Jury, recommended that 'the inspection and control of the business should be placed under such authority as might effectually prevent the inconvenience from going beyond the limits allowed by Government.' This suggestion was a prelude to the provision of new machinery for the control and management of municipal affairs.

The survey of this period would, however, be incomplete without a reference to the organization of the police force in the city. Police and municipal functions were at that date combined, and for years afterwards the cost of the police force was defrayed by the municipal authorities.[1] Gerald Aungier was the first Governor to organize a rude police force composed of Bhandaris. This force was strengthened in 1694 by the appointment of night-patrols, which were charged with the duty of arresting robbers and 'sundry base people who went about work in company in night, designing ill to some of the inhabitants.' Increase of lawlessness led to the conversion of the Bhandari militia into a regular police force in 1771. The night guards patrolled the central area between Dongri and Back Bay from nightfall till

[1] It was not until 1907 that the charges of the City Police Force were wholly borne by the Bombay Government.

dawn, and arrested all Europeans without passes from the Secretary to Government, 'all *coffrees* (Zanzibar slaves) found in greater numbers than two together, or armed with swords, sticks, knives or bludgeons,' and drunken sailors and soldiers out of bounds. Robbery and violence, however, were still so rampant that in 1779 a proper civil police department was organized under an officer styled the 'Lieutenant of Police.' James Todd was appointed to be the first Lieutenant of Police and he happened to be also the last to hold the office. The appointment touched the pockets of the Company. The Directors, therefore, suggested the imposition of a tax to cover the cost. The post was, thereupon, abolished and in lieu of it another appointment of Deputy of Police with a salary of Rs. 3,000 per annum was created in 1780, the cost of the appointment and of the general force being defrayed from the county assessment. Under an order of the Court of Sessions James Todd was the first to hold this post. Ten years later, in 1790, he was tried for corruption. The principal witness against him was his 'native receiver of bribes.' Todd pointed out how dangerous it would be to convict Englishmen on such testimony. Nevertheless, he was convicted, but the sentence was incredibly lenient. Todd was merely 'reprimanded and suffered to resign his station.'[1]

[1] The early history of the Bombay Police Force, including an account of Todd's chequered career, will be found in Edwardes' *Bombay City Police: A Historical Sketch* (1672–1916), Oxford University Press, 1923.

CHAPTER VIII

THE RULE OF THE JUSTICES

AS the area and the population of the town expanded, the need for an adequate organization for the management of municipal affairs appears to have been more intensely felt. We find from an order issued by the Board of Directors in September 1785 that the entire administration was then carried on under the following branches:—

1. The Board of Council.
2. A Military Board.
3. A Board of Revenue.
4. A Board of Trade.

Four years later the Political Department was instituted. There was, however, no special department to devote adequate attention to the problems of public order, health and convenience. Decentralization of functions, or rather de-concentration of authority, was evidently necessary. We find, therefore, emerging into history, towards the closing years of the eighteenth century, a new organization for the management of the local affairs of the town. This new organization was the institution of Justices of the Peace for the municipal and judicial administration of the city on the lines of the system obtaining in England. The connection of the Justices with the machinery of local government in England is of historic interest. It was a concession to the local instincts of the people, an attempt to preserve the central control of the State over local government while respecting the territorial patriotism of the Shires or Counties. This aspect of the origin of the institution

of Justices of the Peace in England is of peculiar interest and significance to the students of local institutions in India, where the constitutional antithesis between centralization and provincial autonomy is no less pronounced than it was in England during the Norman period.

In the early days of the Christian era there were no kings among the English people. When they went to war, they chose leaders to whom they pledged allegiance. Some of their gentlefolk, whom they called elders or *aldermen*, acted as magistrates and presided over their moots or meetings called to settle their affairs. Each village then managed its own affairs but once or twice a year all the yeomen went up to a great meeting, when the business of the nation was transacted. This was called the folk-moot or meeting of the tribe. A group of ten or twelve villages was called a hundred because in old times it would hold about a hundred householders. Every hundred had a hundred-moot which met three or four times a year and settled matters that concerned those who lived in that hundred.

The lust of conquest then seized these simple people. From the year 449 to 600 we find them engaged in warfare to establish themselves in Britain. For these conquests they wanted war leaders, so they elevated their aldermen to the position of kings and gave them more power than they had enjoyed before. We then find the kings gradually assuming greater and greater powers. They ruled over a people, not a mere tribe, and held a stricter sway over their subjects day after day. They divided the land around the great towns which they had fortified and put a *Sheriff* or Shire-steward over each shire by the side of the alderman.

Before the Norman Conquest two officers appeared at the head of the county organization. These were the

earldorman or earl, and the sheriff. The former represented, in dignity at least, the head of the county before it had ceased to be an independent community; the latter was more particularly the representative of the crown. After the conquest the sheriff became a purely royal officer appointed by and directly responsible to the king. He was the centre of the local administration of justice and the representative of the crown in executive as well as judicial business. He held an annual court (the sheriff's tourn or lect) to which the vassals of the king were suitors. The county court also arranged the assessment of rates and the sheriff was in fact the financial representative of the crown within his district.

An appeal lay from the decision of the county court to the king's court in which the king sat at the head of his barons to give justice. These barons were then called justices. Henry I attempted to bring all the county courts into close connection with the *Curia Regis* by sending his justices through the country *on circuit*. They went first to fix what sums of money were due to the king, but in time they sat as judges in the county courts as well. These itinerant justices naturally divested the sheriffs of much of the power enjoyed by them in the early days. From this time the office of sheriff gradually lost all its financial and nearly all its judicial duties so that he is now merely a ministerial officer, discharging petty duties such as summoning and returning the jury and carrying the judgment or sentence of the court into effect.

The reforms introduced by Henry I made all government centre round the *Curia Regis* and prevented other independent powers growing up in the shires. Besides forming a council and court of law for the king, it constituted, when it sat for financial purposes, the Exchequer, so called from the chequered cloth which

lay on the table, convenient for the counting of money. But although it was a great improvement in unifying the scattered parts of the kingdom, a great gulf still divided the rulers with their traditions of a centralizing policy of government and the Anglo-Saxon people with their hereditary instinct for local independence which clung to what had remained of a territorial organization corresponding partly to the Saxon earldoms and partly to the shires or counties into which they were split up. The reforming genius of Edward III, however, discovered a compromise between the stubborn provincialism of the people and the centralizing policy of the new régime.[1] In lieu of the sheriff as a crown officer directly responsible to the king for the government of each county he substituted Justices of the Peace appointed by the State to carry on certain of its precepts and generally 'to keep the peace.' Before this we heard occasionally of knights of the shire being assigned to keep the peace, but immediately after the accession of Edward III a statute was passed (1327, I Edw. III) to the effect that in every shire good and lawful men should be assigned to keep the peace. Three years later it was repeated that good and lawful men should be assigned in every county to keep the peace; those who were indicted before them were to be imprisoned, and they were to send the indictments to the justices of gaol delivery. In 1360 these conservators of the peace were empowered not merely to receive indictments, but to try the indicted, and soon after this, having been trusted with high judicial powers, they came to be known as justices.[2]

[1] These particulars regarding the institution of the Justices have been gathered from several sources, but the suggestion that it was a compromise between the people's instinct for local independence and the centralizing policy of the State has been taken from *Local Government in England* by Redlich and Hirst.

[2] Maitland, *Constitutional History of England.*

They were described as men holding land in the county, nominated to that office by special commission under the great seal. From this time forward the preservation of the peace, the punishment of offenders against the laws, and the control of police, were regarded as functions pertaining to the justices. Under Edward III they were also entrusted with the carrying out of the provisions of the Statute of Labourers. Thus public administration beginning with the bare idea of police extended the scope of its activities to meet the requirements of social and economic development.

Until the first quarter of the eighteenth century there were no Justices of the Peace in India. The charter of 1726, which constituted a Mayor's court for each of the presidency towns, appointed for the first time the Governor or the President and the five 'Seniors' of the council to be Justices of the Peace with power to hold quarter sessions four times in the year, with jurisdiction over all offences except high treason. Towards the end of the century the Governor-General and the other members of the Supreme Council of Fort William in Bengal, and the Chief Justice and other Justices of the supreme Court of Judicature at Fort William, were the only persons authorized by law to act as Justices of the Peace within the provinces of Bengal, Behar and Orissa. In Bombay, as in Madras, the Governor or President, and the other members of the Council were the only Justices. When the East India Company's charter was renewed in 1793, it was considered expedient with a view to preserving and maintaining the peace in these provinces to augment the number of Justices for these places. It was enacted by Statute 33, George III[1] that the Governor-

[1] An Act 'for establishing further regulations for the government of the territories and for the better administration of justice within the same, for appropriating to certain use the revenue and property of the Company and for making provision for the good order and government of the town.'

General in Council should have the power to nominate and appoint, by commission issued from time to time, such and so many of the covenanted servants of the Company, or other British inhabitants as he might consider properly qualified, to act as Justices of the Peace within the aforesaid provinces. For us the most interesting function assigned to the justices was that of looking after the cleansing, repairing and watching of the streets and levying assessments for the purpose on the lines of the English system.

The statute thus forms an important landmark in the history of the municipal government of Bombay. For the autocratic régime of the Scavenger and other officers appointed by Government it substituted corporate control and responsibility for the municipal administration of the city. Popular representation was, no doubt, still absent. The Justices were merely the nominees of Government, yet the change from individual to corporate control is of such vital importance that it seems desirable to quote *in extenso* section 158 of the statute in which the new scheme of administration was embodied :—

'And whereas by an Act of the first year of the reign of His late Majesty King George the First, intituled, "An Act for making the Laws for repairing the Highways more effectual," provision was made for authorising Justices of the Peace in cities and market towns, at their General or Quarter Sessions, to appoint scavengers for cleansing and repairing the streets of the same, and to raise money by assessments upon the inhabitants for defraying the expenses thereof; and whereas by an Act passed in the seventh year of the reign of His present Majesty, to amend and reduce into one Act the statutes for the amendment and preservation of the public highways, it was enacted that the said recited Act of the first year of King George the First should be repealed ; and whereas it is essentially necessary for the health, as well as for the security, comfort and convenience of the inhabitants of the towns and factories of Calcutta, Madras and

Bombay, in the East Indies, that the streets therein should be regularly and effectually cleansed, watched and repaired : Be it therefore enacted, that it shall and may be lawful to and for the Justices of the Peace within or for the Presidencies of Fort William, Fort St. George and Bombay, respectively, for the time being, or the major part of them, from time to time assembled at their General or Quarter Sessions, to appoint scavengers for cleansing the streets of the said towns or factories of Calcutta, Madras, and Bombay, respectively, and to nominate and appoint such persons as they shall think fit in that behalf, and also to order the watching and repairing of the streets therein as they respectively shall judge necessary, and for the purpose of defraying the expenses thereof, from time to time, to make an equal assessment or assessments on the owners or occupiers of houses, buildings and grounds, in the said towns or factories, respectively, according to the true and real annual value thereof, so that the whole of such assessment or assessments shall not exceed, in any one year, the proportion of one-twentieth part of the gross annual values thereof, respectively, unless any higher rate of assessment shall, in the judgment of the Governor-General in Council, or Governor in Council of the said respective Presidencies, become essentially necessary for the cleansing, watching, or repairing thereof, in which case the said Governor-General in Council, or the Governor-in-Council, shall and may, on any such urgent occasion, by Order in Council, authorise a further assessment, not exceeding in any one year the half part of the amount of the ordinary annual assessment herein before limited, and that it shall be thereupon lawful for the said Justices to make a further assessment, according to the tenor of such order, and not otherwise, or in any other manner, and that all and every such assessment or assessments shall and may, from time to time, be levied and collected by such person or persons, and in such manner, as the said Justices, by their Order in Session, shall direct and appoint in that behalf ; and the money thereby raised shall be employed and disposed of according to the orders and directions of the said Justices in Session, respectively, for and towards the repairing, watching, and cleansing the said streets, and for no other purpose ; and that the said assessments, being allowed under the hands and seals of such Justices, or any two or more of them, shall and may be levied by warrant under their hands and seals, or the hands and seals of any two of them, by

distress and sale of the goods and chattels of any person or persons not paying the same within eight days after demand, rendering the overplus (if any be) to the same person or persons, the necessary charges of making, keeping, and selling such distress or distresses, being first deducted.'

The same statute contained provisions for licensing liquor shops. Evidently no Pussyfoot Johnson was then abroad. It was, nevertheless, considered necessary to control the sale of spirituous liquors. One of the clauses, therefore, made the sale subject to the grant of a license. Before this the Bhandaris had enjoyed the privilege of selling arrack on condition of rendering military service and keeping a guard at the Governor's door from 9 a.m. to 11 a.m. and from 3 p.m. to 5 p.m., and they had to pay 'arrack rent' for the monopoly of manufacturing and selling arrack.[1]

Another interesting clause of the statute may be noted. No person was capable of acting as a Justice of the Peace until he had taken the requisite oath of allegiance to the Crown and the Company. Later municipal enactments made no provision for administering the oath to Councillors but the Bengal Council has introduced a clause to that effect in the Bill for the reformed constitution of the Corporation of Calcutta.[2]

With what success the work of cleaning and repair-

[1] During the rule of the Portuguese and from the earliest days of the British occupation of Bombay, a regular revenue was derived from the manufacture and sale of liquor (toddy). Full details of the arrack-farm and the taxes paid by the Bhandaris will be found in *Bombay City Gazetteer*, vol. ii, pp. 464-9.

In this connection Douglas relates the following amusing story :—

'Norman Macleod's conversation on the Tree Tax, on the morning after his arrival in India, was, as nearly as I can remember, "What sort of a tree is that ?" "A palm-tree !" "Yes, I know it is a palm tree, but what kind of palm-tree ?" "A toddy palm-tree." "Yes, I think I have heard the name before ; and what are these letters painted white upon it ?" "For taxation.' "You don't mean to say the trees in India are taxed ?" "Yes." "Oh, India, the very hairs of your head are numbered !'"

[2] The Bill has since been passed into law. Every member of the Calcutta Corporation must before taking his seat make at a meeting of the Corporation an oath or affirmation of his allegiance to the Crown in the prescribed form.

ing the streets of the city was carried on during this period we have no means to determine. The history of the police of the period, however, indirectly throws a ray of light on the municipal administration of these days. We find that in the year 1787 the Grand Jury was constrained to express its dissatisfaction with the work of the Police Force, which was then a part of the municipal machinery. It protested most vigorously against 'the yet inefficient state of every branch of the Police' and pointed out that 'that part of it which had for its object the personal security of the inhabitants and their property was not sufficiently vigorous to prevent the frequent repetition of murder, felony and every other species of atrociousness.' In regard to the purely municipal work entrusted to the police officers, its verdict was equally condemnatory. It complained bitterly of the defective condition of the roads; 'the filthiness of some of the inhabitants, being uncommonly offensive and a real nuisance to society.' It animadverted also upon street obstructions, and the bad state of the markets.

Nothing, however, was done until 1793 when the Grand Jury was obliged to return to the attack and to demand an immediate enquiry into the state of the Police Force. This representation resulted in the passing of the Police Act of 1793. In the following year, the designation of the Deputy of Police, who had been included in His Majesty's Commission of the Peace, was changed to that of Superintendent of Police. In 1795 His Majesty's Justices reorganized the patrol establishment. Traffic in stolen goods was then one of the most lucrative lines of business. The Justices of the Peace were, therefore, constrained to prohibit persons from carrying on business as public pawnbrokers. Only individual goldsmiths and shroffs nominated by them were allowed to conduct the business for a term of five

years, on condition that they gave security for good conduct and furnished the police with a regular return of valuable goods sold or purchased by them. As roads and markets were fruitful sources of complaint, the department of the Surveyor of Roads was placed in charge of the Superintendent of Police and the old office of Clerk of the Market was also annexed to the appointment in the year 1800.[1]

In the following year the Superintendent was entrusted with the additional duties of Secretary to the Buildings Committee and member of the Town Committee. Mere reconstruction of the machinery of administration was, however, not sufficient to effect substantial improvement in the condition of the island. A powerful external stimulus was needed to accelerate its development. Such a stimulus was afforded by the great fire of 1803, which devastated a large part of the unhealthy town and gave the town-planners of the time an excellent opportunity for extensive improvement which they could never otherwise have obtained.

[1] *Bombay City Gazetteer*, vol. ii ; also Edwardes, *Bombay City Police*, ch. i.

CHAPTER IX

FIRST ATTEMPTS AT LOCAL LEGISLATION

ON 17th February 1803, a terrible fire broke out in the north of the town. So violent and widespread was the conflagration that, according to the report of the Hon'ble Jonathan Duncan, the Governor of Bombay, at sunset the destruction of every house in the Fort was apprehended. 'The flames directed their course in a south-easterly direction from the part of the Bazaar opposite to the Cumberland Ravelin quite down to the King's barracks. During the whole of the day every effort was used to oppose its progress, but the fierceness of the fire driven rapidly on by the wind baffled all attempts; nor did it visibly abate till nearly a third part of the town within the walls had been consumed.'[1]

Such calamities have invariably been regarded by town-planners as blessings in disguise. Here, then, was an opportunity for the Christopher Wrens and John Evelyns and Robert Hooks of the day to follow the precedent of the great fire of London, which had led to the reconstruction of that city in the seventeenth century, and to turn the catastrophe to advantage by re-building the town on orderly lines. The Bombay Government was not slow to seize the opportunity. The last embers were hardly extinguished before the work of reform was commenced. On 26th March 1803, the Council of the Governor adopted a resolution to the effect that a Committee be immediately constituted to report on the

[1] For a vivid description of the fire by an eye-witness, who apparently took a prominent part in extinguishing it, see *A Curtailed Memoir of Incidents and Occurrences in the Life of John Surman Carden, Vice-Admiral in the British Navy* (Oxford: Clarendon Press, 1912), pp. 193–6.

best means of repairing the destruction caused by the fire. The Committee, which was named the Town Committee, was asked to make suggestions for allowing warehouses to be built by 'native merchants' and to consider 'the desirability that every mercantile house, especially of the natives, should be situated without the Fort as at Calcutta.'

'It must probably appear under every point of view preferable,' observed Government, 'to allot a space in the oarts adjoining the Fort and Esplanade for the erection of a black town such as Madras; or gradually to effect such a separation between the town and fortifications, as exists in Calcutta.' In a letter to the Town Committee they expressed the hope that the Committee would be able 'to convince the natives in question of the unadvisableness of their residing in a garrison crowded with lofty structures, filled with goods and merchandise, and intersected by such narrow streets as existed before the fire, and that from the conviction forced on their minds by the late sad calamity, they will willingly concur in the expediency of their dwelling houses and families being without the Fort, where they ought to be sensible that under the advantage of our insular situation both will be in perfect security.'

A careful survey of the locality affected by the fire as well as of those unaffected was accordingly made and schemes were suggested not only for the improvement of the town within the Fort walls, but also for the construction of a new town outside. The location of the Mandvi,[1] or custom-house, within the walls of

[1] Mandvi (Port. *Mandovim*) is the ordinary Marathi term for 'a custom-house,' being the diminutive of the Marathi *Māndava*, an open shed or awning. 'Mandeins' or 'Mandovis' were merely Portuguese corruptions of the Marathi word and not Indian corruptions of the Portuguese term as stated by Don Pedro de Almayda, the Portuguese Viceroy, in a letter dated 11th November 1677 embodied in *Anglo Portuguese Negotiations*. 'The Indians,' he says, 'call Mandeins that which we term a Custom house. Carinjah hath alwaies been the Custom house of the whole Terra firma;

the Fort was the main cause of the congestion in the town. A fresh site was, therefore, selected for the import of such inflammable articles as oil, dammer and ghee. The custom-house was removed to that site and facilities were given to merchants to settle in close proximity to the new site which before the transfer was only a sea-shore hamlet inhabited by the Kolis.

'The exclusion of inhabitants,' observed the Town Committee,' is a desirable object to be attained, as many of the previous inhabitants had no right to residence in Fort. They had no business to transact, and were merely drones in the hive, interrupting the business and pursuits of others. The change of the Mandvi will also withdraw a considerable number of petty traders, who will find it to their interest as well as to be more convenient to be near the scene of their traffic. Thus the accommodation within the Fort will be left to the more respectable and wealthy merchants, who have the best claim to its protection.'

The conflagration of 1803 was thus instrumental in laying the foundations of the new settlements which soon sprang up within the city limits. The new site for Mandvi and the Hornby Vellard and other smaller dams provided the necessary ground for extension. By the close of the year the Committee apportioned several new sites outside the town walls in exchange for the old sites within the walls, granting pecuniary compensation in cases in which the value of the new land was less than that of the surrendered land.

All these measures appear to have been taken under executive orders from the Governor and Council. As yet we do not find any attempt made to regulate the re-building and expansion of the city by local legislation. It was only in the year 1807 that the Governor and

Tannah of this part of Galiana and Bindi, terra firma of the Indians, and Bombay of its district In which place every one payes the duty according to the order of the ancient assize ; and the Custome established in the time of the Government of the Indians.'

Council of Bombay were empowered by Act 47, George III, to make regulations, subject to registration and publication in the Recorder's Court, for the good order and government of the town of Bombay and its dependencies.

By the same Act the Governor and Council were authorized to issue commissions appointing so many of the Company's servants or other British inhabitants, as they should consider qualified, to act as Justices of the Peace. The first commission was issued in 1808, whereby a bench of twelve Justices was appointed, charged with the duty of attending to the proper cleaning and repairing and watching of the town and invested with the power to raise money for that purpose by assessment on its inhabitants and to grant licenses for the sale of spirituous liquors.

Four years later was passed a special 'Rule, Ordinance and Regulation I of 1812 (in contradistinction to the ordinary regulations which were from time to time put in force for the safety and conservancy of the entire Western Presidency) for the good order and civil government of the Island of Bombay.' This was the first piece of *local* municipal legislation, and in it we discern the germ of almost all municipal laws which have since been passed. It was drafted by Sir James Mackintosh and provided for the entertainment of a regular police force for the maintenance of law and order and the appointment of three magistrates of police. The magistrates were also constituted municipal authorities in their capacity as Justices of the Peace.

As the first attempt at local legislation, this ordinance is of absorbing interest to the student of municipal history. Many and varied indeed were the affairs and offences of which the Rule took cognizance. It forbade assaults and affrays, defamatory and slanderous words,

encroachments on roads and digging of pits, committing nuisances, rash riding and driving, trades instrumental to the commission of crimes, and preparation of oil, spirits, gunpowder, etc., within the Fort or in the 'Black Town.' It prohibited also the wearing of dangerous weapons and the making of coins current in the island or the debasing of such coins; and provided for the preservation of order in connection with religious rites and processions, and enjoined the maintenance of registers for births, marriages and deaths, and a register of the population of the island showing the caste, trade, sex, dwelling and, as far as possible, age and name of each inhabitant. Even caste questions were brought within the purview of the Rule. Nor was 'the slave trade and slavery' overlooked. What continental statute concerning local government even of advanced modern times can vie with this in its conception of good order and city government? It will not, we trust, be wearisome to the reader to review at some length the provisions of this first piece of local legislation.

The Rule, Ordinance and Regulation consisted of several 'Titles' expressing subjects and 'Articles.' 'Title First' treated 'Of Magistrates' who were to be styled Magistrates of Police and were to perform the duties and exercise the authorities specified in the Rule and Ordinance.

Article I provided that the Hon'ble Governor in Council should select two Justices of Peace to be Magistrates of Police.

Article II defined the duties of the 'Senior Magistrate of Police.' He was to exercise his authority within the Fort and Harbour of Bombay and to attend at the office of the Police in the Fort 'from ten in the forenoon to three in the afternoon of every day.' He was further requested to 'leave at the said office information where

he is to be found at any hour of the day or night.' One wonders how any officer could have found it convenient, even if possible, to enter into such an agreement. Another extraordinary duty was imposed on the Senior Magistrate by the following clause: 'If he be incapacitated by sickness to act and attend, he shall be bound to procure another Justice to act in his stead.'

Article III provided for a 'Second Magistrate' to exercise his authority over the rest of Bombay. He was subject to the same conditions concerning his duties and attendance as those governing the appointment of the Senior Magistrate. He too was required to leave at the office information as to his diurnal and nocturnal movements and engagements and to provide a substitute in case of disability.

Instead of specifying the duties of these Magistrates Article IV merely laid down that 'each of these Magistrates shall ordinarily within his own district, and occasionally elsewhere in the island, do all acts that a single J. P. may by the law of England do.' A vague style of legislation which must often have been found embarrassing, especially as the magistrates were not the sole municipal authorities.

There was also the Court of Petty Sessions. 'Title Second' treated 'Of the Petty Sessions.' It laid down that 'on every Monday morning at ten o'clock, a court shall be assembled at the Police Office within the Fort, to be entitled the Court of Petty Sessions.'

'Title Second' defined the constitution of the Court in these words: 'This Court shall consist of three members, two of whom shall be the Magistrates of Police, and the third shall be the J. P., who by the present course of practice, attends by rotation.' What the prevailing practice was and how the attendance of the Justices by rotation was regulated it is not possible to ascertain.

Probably the practice was based on the system of rotation obtaining in the Recorder's Court, where three of the nine Justices sat with the Recorder in turns, three for each term.

This Article also laid down rules of procedure for the guidance of the Court and provided for appeals from its decisions to the Grand Jury.

The other Articles authorized the Court to inflict on persons convicted of the offences of 'common assault and affrays, and all defamatory slanderous words, such fines, a forfeiture or reasonable corporeal punishments as the offence shall seem to them to deserve.'

The Court had also the power to adjudicate in all questions of 'caste,' a delicate question which the legislature soon afterwards deemed it expedient to confide to the members of the different castes to settle among themselves. Article XI ran as follows:—'The Petty Sessions shall possess the power of deciding on all questions respecting the appointment of the officers of caste and decide in all complaints of expulsion from caste, subject to appeal to the Governor in Council. They shall keep a register of the heads, Muccādems, Patels, Chavgulas, Panchāyats and of the principal persons who in each caste expound the law or the religion. They are hereby enjoined to respect caste usages on the one hand and on the other hand to guard against the tyrannical abuse of power.'

'Title Third' provided for the appointment of 'some respectable European to be High Constable'[1] and for a sufficient number of Europeans to be constables for the preservation of peace and the execution of law. These officers were to be appointed by the Justices at their Quarter Sessions.

[1] He was also styled 'Deputy of Police.'

'Title Fourth' dealt with 'offences against the public communications.' It prohibited encroachments on roads or streets and required diggers and owners of wells to 'surround them with a wall of chunam three feet high.'

Articles IV and V required carriages and horsemen to go at a moderate pace and 'keep the proper side of the road,' and provided for the numbering of hackneys, committing nuisances, and leaving carts or carriages in the street or road, with or without horses and bullocks.

Article III laid down that no owner or occupier of land was to 'suffer pits to remain uncovered during the night.' Any infringement of this provision was punishable by the Court of Petty Sessions who were empowered to 'inflict such legal punishments as the danger, audacity or repetition of the offence might require.'

'Title Fifth' prohibited the making of oil or distilling of spirits or mixing and preparing of copperas and red lead or manufacturing of gunpowder within the Fort or in the Black Town.'

The remaining Titles provided for the other matters referred to above. As regards the 'trades which may be made instrumental to the commission of crimes,' it was laid down that a register should be kept of houses licensed to sell spirits, of places where *bhāng* or opium was usually taken, of all shops and warehouses where goods were received in pawn, and of all goldsmiths and sellers or buyers of gold and silver.

Importation of slaves into the island was strictly prohibited. The Court of Petty Sessions was in all cases to 'emancipate the slave and send him or her back to their family, or to the place from which he or she was brought, at the expense of the importer.' Where the slave desired to remain in the island, the

importer was to pay him the money which would otherwise have been employed in defraying the expenses of his return. The Rule further provided: 'All children born of parents in a state of slavery after the 1st day of January, 1812, shall be free. But if the masters of their parents or any other persons support them from birth till they be capable of working, they shall be compelled to work without wages for such masters or others for such numbers of years as the Petty Sessions shall determine to be a compensation for their support during childhood.'

It will be seen that the Rule contemplated an amalgamation of police and municipal activities. Opinions will differ as to whether such a combination is preferable to the existing arrangement which places the police under an officer altogether independent of the authority of the municipal corporation. There can be no question, however, that the old arrangement was certainly more helpful and useful in enforcing the provisions of the municipal regulations than the existing one. Its subsequent separation from the municipal authorities has placed the police under the control of an executive department of Government not directly responsible to the representatives of the people in the Legislative Council. Whether the police should be thus allowed to enjoy such immunity from popular criticism and control as is necessarily implied in the existing arrangement is a question of vital importance for the peace and safety of the people. The Bombay police force has unquestionably a record of much useful work to its credit. Nevertheless it is the opinion of many whose lot it is to come into daily contact with the police and to hear disquieting stories of police high-handedness that it is very necessary that some agency should be instituted by which the work of the police may be effectively controlled. The disagree-

able experiences of many humble residents who have fallen victims to the inveterate tendency of the police to misuse their powers seem to justify measures of reform in the direction possibly of placing the police under the control of a Watch Committee composed of representatives of the people or under a department of Government in charge of a minister responsible to the Legislative Council.

We must now pass on to another Ordinance passed in the year 1812. By Act 33 of George III the Justices were invested with power to control the sale of arrack and foreign liquors within the town or factory of Bombay. It was deemed expedient to extend the authority so as to bring the sale of arrack and other spirituous liquors in every part of the island of Bombay under control. The jurisdiction of the Justices was accordingly extended by the provisions of Rule, Ordinance and Regulation II of 1812.[1] The following article conferred wide powers of punishment on the magistrates:

'Any person who may be convicted of selling spirits in which any noxious ingredients shall have been mixed, shall be liable to be committed by any magistrate to jail, to be tried before the Court of Petty Sessions, and on proof duly established of his guilt, the said prisoner shall be fined, flogged, imprisoned, and kept to hard labour, at the discretion of the magistrates.'

[1] In 1815 the authority of the Justices was further extended to the retail sale of toddy and all other fermented or intoxicating liquors.

CHAPTER X

SOME REMARKABLE ENACTMENTS
(1812–1815)

THE legislative machinery of the Governor in Council was particularly active between the years 1812 and 1815. The enactments promulgated during the period of the governorship of Sir Evan Nepean cover a variety of subjects affecting the social welfare of the people.

In the preceding chapter we reviewed Rules I and II passed in the year 1812. A third Rule, Ordinance and Regulation was passed in the same year to restrain the construction of buildings within the town walls, to remove and prevent encroachments on streets and high roads and to prevent the introduction of articles of a combustible nature within the garrison. The intention, obviously, was to turn to advantage the situation created by the fire of 1803 and to rebuild the town on systematic and well regulated lines. The preamble ran as follows :—

'Whereas by a statute passed in the forty-seventh year of His present Majesty King George the Third entitled "An Act for the better Government of the Settlements of Fort St. George and Bombay, for the Regulation of Public Banks and for amending so much of an Act passed in the thirty-third year of His present Majesty as relates to the periods at which the Civil Servants of the East India Company may be employed in their service abroad," it is enacted, that it shall be lawful for the Governor in Council to make and issue rules for the good order and civil government of this island, subject to the previous condition of being duly registered and published in the Court of the Recorder of Bombay, and to such other conditions as are imposed by the statutes of the 13th, 39th and 40th of His present Majesty, upon the exercise of a like power at Fort William in

Bengal by the Governor General in Council; and whereas from the various encroachments which at sundry times have been made, as on the streets, lanes and passages within the walls of the town and garrison, many of the said roads, streets and passages have become narrow and incommodious for carriages and passengers and prejudicial to the trade and health of the inhabitants, and are necessary to be enlarged, as well for the convenience of the said town and island as the security of the said fort and garrison; and whereas, by reason of a most dreadful fire happening within the said town in the year of Our Lord 1803, a great part thereof was burnt down and destroyed within the compass of a few days and lies buried in its own ruins, for the speedy restoration thereof and for the better regulation, uniformity and gracefulness of such new buildings as shall be erected for habitations therein and to the end that great and outrageous fires (through the blessings of Almighty God) so far forth as human providence can foresee, may be prevented for the time to come, for the better security of the said town, fort and garrison, and for the general benefit, comfort and convenience of all the inhabitants of the said town and Island of Bombay.'

'Uniformity and gracefulness' and 'comfort and convenience' are, however, relative terms. This little town-planning ordinance must have been hailed in those days as a signal proof of the progressive spirit of the times and the authorities of the day doubtless enforced its provisions and effected what in their opinion were great improvements. To those, however, who saw the rebuilt city and who knew what its condition was until the Bombay Improvement Trust commenced its operations in the year 1898, the notions of our forebears concerning uniformity and grace and comfort and convenience appear to have been very crude indeed. It has taken more than a hundred years and hundreds of thousands of rupees to undo their town-planning. Nevertheless, we have reason to be proud of the progressive spirit in which the Rule Ordinance was conceived and

promulgated. The reason for humiliation, on the other hand, lies in the fact that the citizens of Bombay find themselves still in the kindergarten school of town-planning.

Having regard to the objects and reasons set forth in the above quoted preamble, the rule may be described as the first town-planning enactment for Bombay. For the second town-planning enactment the city had to wait for a century. For that belated measure the public of Bombay are indebted to Lord Sydenham, but so short is the memory of the public that during all the recent discussions and jubilations [1] concerning the operations of the Development Department of Bombay scarcely any one has recalled what Lord Sydenham tried to accomplish in that direction only a few years ago. He was wise enough to see that the congestion of the city was bound to lead to a house famine, and he promptly took steps to lay down lines for the development and expansion of the city. One of these measures was the Town-Planning Act of 1909.[2] But since that measure was introduced in the Council with a tremendous fanfare of Government trumpeting, the officers charged with the duty of carrying out its provisions have merely played with it. There has been very little actual town-planning and suburban development. What has been achieved is due mainly to private enterprise. The paper schemes of Government have often

[1] Since this chapter was written the jubilations have been followed by lamentations and denunciations owing to the anticipated financial failure of the schemes.

[2] Lord Sydenham was also extremely anxious to commence the Back Bay Reclamation. He was, however, debarred from embarking on the project by the Government of India which refused to allow the raising of an all-India loan or the floating of a local Bombay loan. It was only after the lapse of about ten years that under the increased Provincial independence allowed by the Reforms Act of 1919, Bombay was able to raise a loan locally for this and other sections of the development scheme. Owing to mistakes and miscalculations the venture now appears to be a disaster, but it affords a typical illustration of the deadening effect of the former centralizing policy of the Government of India on provincial progress.

hampered the public and retarded the development of several areas. Prices of land have been forced up and the house famine in the city as well as in the suburbs is as acute as ever. This is, however, a digression. Let us hark back to the town-planning ordinance.

Under the Rule the Governor in Council appointed a 'Surveyor of buildings and dwellings, and of the roads, streets, lanes, and passages, situated beyond the limits of the town of Bombay,' who was to officiate under the immediate orders of the Court of Petty Sessions, and who was also to act, if required, as Assessor and Superintendent of Repairs within the limits of the town of Bombay. The Rule prescribed certain building regulations and prohibited, except under special licenses, the admission within the town of Bombay of pitch, tar, rosin, dammer, turpentine, varnish, paint, oil, gunpowder, bamboos, tattas, cadjans, bamboo-mats and copperas. It also restricted the quantity of hay allowed to be brought within the Fort and prohibited lights in stables within the gates of the Fort except in hanging globe lamps or lanterns. Deposit of filth on public thoroughfares was penalized and street encroachments except under licenses were prohibited.

In the following year another remarkable Rule was issued. We have no poor laws yet, but there were some regulations a hundred years ago for the prevention of destitution and the control of beggars. Rule, Ordinance and Regulation of 1813 gave powers to the local authorities for compelling parents and others to maintain their families, for subjecting aliens to certain restrictions as to registration, and for whipping, imprisoning, and deporting them if found begging in public places. The preamble of this Rule shows that it was considered necessary for the sake of humanity that means should be adopted 'for preventing parents and others from

deserting their children or other connections dependent on them for support,' and that it was expedient 'for the good order and civil government of this island that the numerous aliens resorting thereto should be placed under certain restrictions.' So novel and yet so interesting and suggestive are the provisions of this Rule and so deficient is the legislation and administrative machinery of Bombay to-day for dealing with these social problems of paramount importance that it seems desirable to reproduce the Articles.

Article 1. 'That the Father, grandfather, mother and children of impotent poor in the town and factory of Bombay, being of sufficient ability, shall relieve and maintain them, according to such rate and in such manner as by the Justices of the said town and factory of Bombay at their Petty Sessions shall be assessed and directed.'

Article 2. 'For the punishment of those who being able to labour yet run away from or leave their families without any provision, when the same is proved by a sufficient witness or witnesses on oath before one or more Justices of the Peace, the person so offending shall, by the said Justices, be sent to common gaol, unless he find adequate security, to be approved of by the said Justice or Justices, there to be detained till the next Petty Sessions of the Peace, where Magistrates shall have power, on examination of the circumstances of the case, to punish the offender by fine, not exceeding two hundred rupees, imprisonment in the common gaol for not less than one or more than six months, there to be kept at hard labour, or with whipping, in such manner and at such times as they shall direct.'

Article 3. 'For maintaining families who may be deserted, any two Justices of the Peace may, on complaint of any wife, or child or children that they are left without support, by their warrant, empower the Sheriff to seize so much of the goods and chattels and receive so much of the annual rents and profits of the land and tenements of such husband, father, or mother, as such two Justices shall order, or may fine them respectively to such extent as they may think reasonable, for or toward the bringing up and providing for the same, which warrant being confirmed at the next Petty Sessions, they, the Justices of such Petty Sessions,

may make an order for the Sheriff to dispose of such goods and chattels, by sale or otherwise, or so much of them for the purpose aforesaid, as the Court shall think fit, and to receive the rents and profits, or so much of them as shall be ordered by the Sessions as aforesaid, of his or her lands and tenements, and to pay the same to the Justices issuing the said warrant, who shall pay the same from time to time to the Muccadum of the caste to which the said wife, child, or children shall belong, or to such other person as the said Magistrate shall deem proper to be entrusted therewith, to be applied by him in their support, the Muccadum or such other person being responsible to the said Justices for the due application thereof.'

Article 4. 'If any single woman shall be delivered of a bastard child and shall, on an examination to be taken in writing before any one or more of the said Justices of Bombay, charge any person with being the father of such child, and shall charge such person with refusing and neglecting to support the same, it shall and may be lawful for such Justice or Justices, on an application made by her, or on her behalf, to issue out his or their warrant or warrants for the immediate apprehension of such person so charged as aforesaid and bringing him before such Justice or Justices and the Justice or Justices, before whom such person is brought, is and are hereby authorized to commit such person to the common gaol of Bombay, unless he shall give security for the support of such child or shall enter into a recognizance, with sufficient security to appear at the Petty Sessions to be next held in Bombay to abide and perform such order as shall there be made.'

Article 5. 'If the said Justices at their Petty Sessions shall adjudge a person to be the reputed father of an illegitimate child, they shall order him to make such provision for the support of the same either by a weekly allowance or a sum in gross, as to them shall seem meet, and further to direct that the Muccadum of the caste to which such woman belongs or such other person as may be approved of by them shall have power to interfere and to compel the mother or the person having care of the child to apply the allowance in support of such child.'

TITLE ALIENS

Article 1. 'That aliens shall within four days after their arrival on this island, register their names and the employments which they mean to follow, with the Muccadum of their caste,

and in case it shall be proved on oath to anyone of the Justices of Bombay that any alien has not complied with this order, such Justice shall have power to compel him forthwith to enrol his name and employment in the manner aforesaid, with the Muccadum of his caste, and to bind him over to appear at the next Petty Sessions ; and in case it shall be proved before the Magistrate in Petty Sessions that the said alien shall not assign a satisfactory cause for having failed in the first instance to enter his name with the Muccadum as aforesaid, then the said Magistrate in Petty Sessions shall have power to fine him to an extent not exceeding one hundred rupees, and in case he shall refuse to pay such fine, that they may in their discretion forthwith by a warrant under their hands and seals send him off the island.'

Article 2. ' When an alien shall go about from door to door, or place himself or herself in streets, highways, or passages, to beg alms in such places or if it is proved that such alien lives idle without employment, and refuses to work in the employment which he professed to follow in the entry so directed as aforesaid to be made with the Muccadum of his caste, it shall be lawful for any Justices before whom such complaint shall be made on oath to commit such offender to the common gaol of Bombay, to be detained till the next Petty Sessions of the peace, and if the Justices at such Sessions shall, on examination of the circumstances of the case, adjudge such alien to be guilty of the offences aforesaid, they shall order him to be imprisoned for not more than six months or less than one month, and kept to hard labour during such imprisonment and during his confinement, at the discretion of the Magistrates, to be once whipped in such manner as they shall think fit, and if such alien so ordered by the said Sessions to be imprisoned shall offend again, he shall, on proof thereof, and on production of the record of his former conviction, be sent off the island by the authority aforesaid.'

Article 3. ' Whenever an alien shall be sent off the island, notice thereof shall be sent to the Muccadum of his caste, together with a description of his person to prevent as much as possible his returning again.'

Such were the Poor Laws of the last century. It is time Indian legislators studied them for inspiration in dealing with the question of pauperism and pauper immigration which still awaits solution. They might

also profit by the study of the notification issued by the Council of the Governor of Bombay to protect the poor from the avidity of grain-merchants, to which a reference has already been made.

In the same year another Rule was passed to diminish the number of pariah dogs on the Island of Bombay, and to authorize the erection of public pounds for animals straying or trespassing on the public streets or roads of the island, or on the grounds of the inhabitants thereof. It was lawful under this regulation for any person during the months of April, May, September and October yearly 'to kill and destroy all and every dog or dogs found or being on any of the public streets or roads of the island or without the enclosure of the house of the owner of such dog or dogs.' The Rule also authorized and commanded the Magistrates of Police ' to issue orders to all Sepoys or others acting under the Police, or to any other persons to be employed occasionally for that special purpose, to kill and destroy all dogs so found straying between the 15th of April and 15th of May and the 15th of September and the 15th of October in each year.' His Majesty's Justices of the Peace, or failing them the Magistrates of Police, were also empowered to fix from time to time a fee not exceeding half a rupee to be paid as a reward for each dog so killed during the months of April and May and September and October in each year to the persons killing it. This fee was to be paid from the Police Fund.

The problem of the relations of masters and servants appears to have caused some anxiety to the authorities of the time. It was, therefore, considered expedient ' to place the various descriptions of household servants, hamauls or palanquin-bearers in the employ of European or native inhabitants ' of the island under certain regulations whereby they might be rendered amenable for acts

of misdemeanour towards their employers and at the same time be secured from loss of wages or ill-treatment on the part of their employers. Rule, Ordinance and Regulation I of 1814 authorized two of His Majesty's Justices of the Peace 'to decide on all Disputes arising from Masters and Mistresses and any of their Household Servants, Hamauls and Palanquin-bearers, and for empowering either of the Magistrates of Police to decide summarily on Acts of Miscarriage and ill-behaviour, requiring moderate though immediate correction.' The legislators tried to hold the scales even as between the employer and employee, and a perusal of the following clauses will perchance provoke a demand for similar legislation from persons victimized by the domineering servants of the present day.

Article 2. 'That it shall and may be lawful to and for any two Justices upon application made upon oath by or on behalf of any master, mistress or employer against any servant whatsoever touching misdemeanour or ill-behaviour in such his or her service or employment or in absenting themselves from their service on a false pretence, to hear, examine and determine the same and, on due proof thereof, to punish the offender by commitment to the gaol of the said town and island of Bombay, there to remain and be kept to hard labour for a reasonable time not exceeding one calendar month, or otherwise, by abating some part of his or her wages and by discharging such servants from his or their service and employment.'

* * * *

Article 4. 'If any servant hired by any master or mistress depart from them before the end of his or her term, unless it be for some reasonable and just cause, to be shown to two of the Justices of the town and island of Bombay, or if any servant at the end of his or her term depart from his master or mistress without seven days' warning, every servant so departing shall on complaint made thereof by the master or mistress to two of the Justices of the town and island of Bombay, and, on due proof thereof, be punished at the discretion of the said two Justices by a fine not exceeding one month's wages or by commitment to

the gaol of the said town and island of Bombay, there to be kept at hard labour for a reasonable time not exceeding one month or otherwise by abating some part of his or her wages.'

Title Second provided for the infliction of corporal punishment on servants or hamauls for breach of the provision of this rule or for other miscarriage or misdemeanour towards their masters or mistresses. These provisions were, however, repealed by Rule, Ordinance and Regulation I of 1827.

These Rules give merely an idea of the machinery of municipal administration in the abstract. One seeks in vain for a glimpse of the machinery concrete. Neither the Bench of Justices nor the Court of Petty Sessions has left its minutes of proceedings behind. After patient research, however, we have stumbled on a notice regarding drainage connections, which appeared in the *Bombay Courier*, dated 21st January 1815, from which it would appear that the Court of Petty Sessions was not the sole Executive Corporation of the time. The Bench of Justices also regulated the administration of public sanitation. This particular notice was issued by the Superintendent of Repairs and ran as follows :—

' Notice is hereby given that all persons who may be desirous of having a private drain conducted into the new main sewer within the Fort are hereby directed to deliver the certificate required by the Orders of His Majesty's worshipful Bench of Justices of the Peace dated November 22, 1814, to the Superintendent of Repairs on or before the 25th instant after which period none will be received.'

' And as the said Orders of the worshipful Bench have not hitherto been attended to, notice is hereby given, that if it should be requisite to remove or alter any part of the masonry of the said new sewer already built or that may be built between the date hereof and the 25th instant all and every expense attending such alteration must be paid by the party or parties who may wish to have such private drain as aforesaid ; nor will

any such removal or alteration be made until the estimated expenses attending the same shall have been paid into the hands of the Collector of the assessment.'

'By Order of the Worshipful Bench,
J. HAWKINS
Superintendent of Repairs.

BOMBAY,
17th January 1815.'

In the files of the same journal is preserved the first local enactment regulating the levy and collection of the house-tax in Bombay. We find it published in the extraordinary issue of the *Bombay Courier* of 28th December 1815, for general information. It is described as Regulation IX of 1815, 'a regulation for collecting the tax on houses on the island of Bombay situated beyond the limits of the town as fixed in 1794, which tax was imposed by the order and under the authority of the Right Honourable the Governor in Council on the 20th January 1813 and confirmed by the Statute of 54th George III, C. 105, passed by the Governor in Council on the 6th September 1815.'

The regulation introduces us to the officers appointed for fixing the assessment and for the collection of the tax. The Collector of Bombay was entrusted with the collection and an assessor was to be appointed by the Governor in Council to adjust the assessment of houses in conformity to the rules prescribed by the regulation. 'A native receiver or receivers' were to be appointed by the Collector to realize the tax. These receivers were to be remunerated by such monthly salary as the Governor in Council might think proper. Receivers so appointed were required to give security for the due performance of their duties.

Before they entered upon the execution of their duties the Assessor and Receivers were required to take the following oath :—

"I appointed to assess or collect the house-tax for the year in division (or ward) No . . . of the city or town of . . . swear that I will assess (or collect) the tax on houses fairly and impartially according to the rules prescribed and that I will render a true account of the same to the Collector of Bombay."

It appears that certain high class persons were exempt from the obligation to take such an oath. The following proviso to the general rule shows how the religious or traditional scruples of people were respected in those days :—

'If any person appointed to be a Receiver should be of a rank or caste to entitle him to an exemption from taking an oath, he shall make and subscribe a solemn declaration to the same effect.'

It is interesting to note that the general principles and conditions on which properties are assessed in modern times have been taken from this early code of assessment. In the first place 'all religious edifices' were declared exempt from the payment of the tax. All temporary houses situated within the limits of military cantonments and occupied by Europeans and Indian officers or the soldiers and sepoys of His Majesty's and the Company's army were also exempted from the payment of the tax. With the exception of these premises dwelling houses of every description yielding an annual rent of Rs. 20 and upwards were to be assessed at the rate of 5 per cent on their annual value with effect from 1st January 1816. In cases wherein houses were occupied by the owners themselves or wherein no rent was received for them from the occupants, the Assessor was required to adjudge the tax from a

consideration of the annual value of other houses of the same size and description in the neighbourhood.

On completion of the assessment the Assessor was to furnish an abstract statement to the Governor in Council for his approval, and on such assessment being approved the tax was to be levied by the Collector. The assessment was to be revised annually. Persons dissatisfied with the assessment fixed on their habitations were in the first instance to complain to the Collector who would represent the case to the Assessor and the assessment would be modified by the Assessor if it should appear to him to be necessary. Should the Assessor refuse to reduce the assessment or the party remain dissatisfied with the proceedings, he was to be allowed an appeal to the Revenue Judge whose decision was to be considered final excepting in cases in which particular circumstances might appear to the *Sadar Adalut* to render the admission of a special appeal necessary. With a view to discouraging litigation the Revenue Judge was authorized to impose a fine on persons whose objections to the assessment might prove on investigation to be evidently groundless and litigious. The fear of a fine must have deterred several persons from protesting against the vagaries of the Assessor, but these provisions for appeal were unquestionably a marked improvement on the previously existing regulations which admitted of no complaint. The following proclamation issued in 1795 bears testimony to the absolutism of the Justices.

PROCLAMATION

His Majesty's Justices of Oyer and Terminer, in Sessions assembled, having considered and approved the valuation made by the Committee of Buildings upon the several houses, buildings, and grounds within the Garrison of Bombay, have ordered and directed that the said houses, buildings, grounds so valued and estimated and the owners and occupiers thereof, respectively,

shall be and the same are hereby assessed by the year at the rate of one-twentieth part of the respective sums at which the same were valued and estimated, being one-twentieth part of the gross annual value thereof.

JAMES MORLEY,
Clerk of the Peace.

BOMBAY,
29th January, 1795.

The proceeds from the tax were to be exclusively appropriated to the 'purpose of watching or cleansing the streets of the towns or villages beyond the limit of the town of Bombay, for the construction of drains and for rendering the habitations of the natives in other respects healthy and comfortable.' The plans and estimates of improvements were in the first instance to be prepared under the superintendence of the Court of Petty Sessions and submitted to the consideration and approval of the Governor in Council.

This last clause incidentally indicates the executive work done by the Court of Petty Sessions and the close control exercised by the Governor in Council on the management of local affairs.

A brief reference to the manner in which the regulations of the time were enforced by the magistrates will form a fitting epilogue to the story of this epoch-making period of local legislation. The powers vested in the executive authorities under the rules of 1812 were practically unlimited. No statutory provisions governed the severity or leniency of the Magistrates of the Court of Petty Sessions in dealing with the offences under the Rules. It was left entirely to their discretion to inflict such punishments 'as the danger, audacity, or repetition of the offence may require.'

Under the Rules the Police and the Magistracy formed part of the municipal machinery and the

magistrates were also constituted municipal authorities in their capacity as Justices of the Peace. Nobody, however, appears to have been worried in those days by the constitutional aspect of such a combination of executive and judicial functions. The National Congress was not yet born. The population, steeped in ignorance, was blissfully unconscious of the elementary rights of citizenship, and it was not in the interest of the host of adventurers who came to India to return to England with enormous fortunes as 'nabobs,' to hold the torch of knowledge before the people. It was only in the year 1813 when the time arrived for renewing the charter of the East India Company that it was recognized for the first time that it was the duty of England 'to promote the interest and happiness of the native inhabitants of the British dominions in India' and it was resolved by the House of Commons that 'such measures ought to be adopted as may tend to the introduction amongst them of useful knowledge and of religious and moral improvement.' The Act embodying this resolution provided that a magnificent sum of one lakh of rupees was to be set apart in each year and 'applied to the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories in India.' Such being the state of the people, there was nothing like modern public criticism or public opinion in the India of those days. Yet, despite these conditions, the unlimited powers of the magistracy and their drastic enforcement of municipal regulations in Bombay appear to have given rise to complaints which resulted three years later in the issue of another Rule 'for enlarging, explaining and amending' Rule I of 1812. This rule defined the powers of the executive and prescribed specific penalties for offences,

and at the same time vested further powers in the Court of Petty Sessions.

The following provisions regarding street encroachments deserve special notice in these days when the municipality itself is the greatest offender in this respect and treats road obstructions as a source of revenue.

Article 11. 'And whereas many persons are seen frequently working and carrying on their different trades in the public roads, to the great annoyance and nuisance of those who are passing by; now be it ordained, that if any person shall, after the passing of this Rule, Ordinance, and Regulation, be found working or carrying on their trades in any of the public streets, roads or lanes of this island, other than hawkers or pedlars carrying about from place to place their goods for sale, he shall, on conviction before one Justice, by confession, or view of the Justice, or oath of one witness, forfeit any sum not exceeding ten rupees; and in default of payment shall be committed to the common gaol, there to be kept at hard labour for any time not exceeding one month, unless such forfeiture shall be sooner paid; and such person may, without warrant, be apprehended by any person who shall see such offence committed, and shall be immediately conveyed to a constable or peace officer, in order to be carried before a Justice.'

Article 12. 'And whereas logs of timber, benches, cots, and other obstructing and annoying substances and articles, are frequently found lying in the middle and on the sides of the public streets, roads, lanes of this island, the owner or owners of which it is difficult to find or ascertain; now be it ordained, that the said Court of Petty Sessions shall have full power and authority, and are hereby invested therewith, not only to remove or cause to be removed such logs of timber, benches, cots and all other obstructing or annoying substances, but also to sell, or cause the same to be sold in manner aforesaid, for the benefit of the Police Fund; and any person who shall resist or make forcible opposition against the said Court of Petty Sessions or its officers, either when carrying into effect the aforesaid duty, or any other enjoined by any Rule, Ordinance, or Regulation, shall be amenable to the said Court, which in vindication of its own authority is hereby empowered to punish all such offenders by

fine, not exceeding one hundred rupees, or imprisonment in the common gaol for not less than one or more than two months, there to be kept at hard labour.'

By Article 11 of Rule I of 1812 it was enacted that the Court of Petty Sessions had the power of deciding on all questions respecting the appointment of the officers of castes, according to the usage of the respective castes, and of dealing with all complaints of expulsion from castes, subject to an appeal to the Governor in Council. The exercise of these powers by the Court must have involved interference with the usages and customs of the Indian population and caused a good deal of unpleasantness and inconvenience. It was, therefore, ordained by the Rule of 1815 that the provisions of the previous Rule should be treated as repealed.

CHAPTER XI

OTHER ENACTMENTS
(1815–1833)

THE notable regulations which we have reviewed in the preceding chapters do not complete the code of regulations and executive orders issued by the Governor in Council under the quasi-legislative powers vested in him by the Statute of 1807. The system of legislation by the executive of the Presidency continued till the year 1833 when the East India Company's charter was renewed for a further term of twenty years. The minds of British statesmen were then considerably influenced by the views of Bentham on legislation and codification. Macaulay was in Parliament, and was Secretary to the Board of Control. James Mill, Bentham's disciple, held the office of Examiner of India Correspondence at the India House. Thanks to their efforts, searching enquiries into the administration of India were made before the Charter Act of 1833 was passed.

The territorial possessions of the Company were allowed to remain under their Government for a fresh term of twenty years, 'in trust for His Majesty, his heirs and successors, for the service of the Government of India.' The Company's monopoly of the China trade and of the tea trade was abolished and the Company was required to close its commercial business and to wind up its affairs with all convenient speed. No very material alteration was made in the system under which the executive Government was to be carried on in India. The superintendence, direction and control of the whole civil and military Government was expressly vested in a Governor-General and Councillors who were to be

styled 'the Governor-General of India in Council.' Important alterations were, however, made by the Act in the legislative functions of the Indian Government.

'At that date,' says Cowell,[1] 'there were five different bodies of statute law in force in the (Indian) empire. First, there was the whole body of statute law existing, so far as it was applicable, which was introduced by the Charter of George I and which applied, at least, in the presidency towns. Secondly, all English Acts subsequent to that date, which were expressly extended to any part of India. Thirdly, the regulations of the Governor-General's Council, which commenced with the Revised Code of 1793, containing forty-eight regulations, all passed on the same day (which embraced the results of twelve years' antecedent legislation), and were continued down to the year 1834. They had force in the territories of Bengal only. Fourthly, the regulations of the Madras Council, which spread over the period of thirty-two years, from 1802 to 1834, and are (were) in force in the Presidency of Fort St. George. Fifthly, the regulations of the Bombay Code, which began with the revised code of Mountstuart Elphinstone in 1827, comprising the results of twenty-eight years' previous legislation, and were also continued to 1834, having force and validity in the Presidency (of Bombay).

'In 1833,' continues Cowell, 'the attention of Parliament was directed to three leading vices in the process of Indian Government. The first was in the nature of the laws and regulations; the second was in the ill-defined authority and power from which these various laws and regulations emanated; and the third was the anomalous and sometimes conflicting judicatures by which the laws were administered.'

The Act of 1833, therefore, withdrew the legislative powers of the Madras and Bombay Governments and vested the entire legislative authority exclusively in the Council of the Governor-General, which was reinforced by the addition of a fourth ordinary member whose duties were to be confined to legislation and who was not to be one of the Company's servants. This fourth member was Macaulay.

[1] *Courts and Legislative Authorities in India.*

The newly constituted Council was authorized to legislate for all persons, places and courts within the Company's territories; and the laws made by it were, subject to disallowance by the Court of Directors, to have the effect of Acts of Parliament, registration in a Court of Justice being dispensed with. The four Presidential Governments were merely authorized to submit to the Governor-General in Council 'drafts or projects of any laws or regulations which they might think expedient' and the Governor-General in Council was required to take these drafts and projects into consideration and to communicate his resolutions thereon to the Government proposing them. Thus with the creation of one regular legislature by the Charter Act of 1833 the era of legislation by the Bombay Government came to an end.[1] Thenceforward, the Government of India Acts regulated the local Government of the different Presidencies, but before we pass on to the new era of legislation a few interesting regulations and notifications issued by the Governor of Bombay in Council between the years 1815 and 1833 may be noted.

REGULATION III OF 1817. In the issue of 4th August 1817 of the *Bombay Courier*, we find Regulation III of 1817 published for general information. The object of this regulation was to explain and amend Regulation IX of 1815 for collecting the tax on houses. Article III specifying the basis of valuation of properties ran as follows:—

'An assessor shall be appointed by the Governor-in-Council who shall make an assessment on dwelling houses of every description on the Island of Bombay beyond the limits of the town of Bombay and on the Island of Colaba save and except those hereafter excepted by the regulation, the annual rent or

[1] The legislative powers, withdrawn by the Charter Act of 1833, were eventually restored to the Bombay Government in 1861, the Council of the Governor for legislative purposes being expanded by the inclusion of the Advocate-General and other nominated members.

value of which shall be estimated by the said assessor at 20 rupees and upwards at the rate of 5 per cent on such annual rent or value and where two or more houses the annual rent or value of each or either of which shall be estimated by the said assessor below 20 rupees shall belong to the same owner the said assessment shall be made at the rate above stated on the aggregate annual rent or value of such houses provided the said aggregate annual rent or value shall amount to 20 rupees and upwards.'

Provision was made, for the first time, for refund in respect of vacancies by Article VI, which ran as follows :—

'Owners of houses which shall be unoccupied or uninhabited for three successive months or upwards in any year shall on proof of the same to the Assessor be allowed a proportionate abatement of the assessment on the said houses for the said year, less such abatement to be refunded at the end of the year or carried to the credit of the following year's assessment on the said houses at the option of the owner.'

Under the Rule of 1815 appeals against assessment were to be heard by the Revenue Judge. The amending regulation provided for an appeal to the Court of Petty Sessions. All such appeals were to be made by petitions in writing during the month in which the Assessors' books lay open for public inspection and no further time was to be allowed for the presentation of such appeals.

REGULATION VII OF 1817. This was a regulation for preventing the clandestine importation and sale of tobacco, *ganja*, and snuff in the island of Bombay, Colaba and Old Woman's Island and for licensing the retailers thereof.

RESTRICTIONS ON EUROPEAN TRAVELLERS. The files of the *Bombay Courier* preserve an interesting notification regarding the restrictions then imposed on European travellers. In April 1818 the following notification was issued over the signature of William Newnham, Secretary to Government :—

'Europeans of whatever rank, description or country, who shall be discovered passing through the territories beyond the

islands of Bombay, Salsette, Coranjah or Elephanta, without being furnished with a regular passport, will be taken into custody and confined until the pleasure of the Government shall be known.'

RULE ORDINANCE AND REGULATION I OF 1818. Even in those leisured days the cart traffic of the city was the despair of the road engineer. A regulation had been passed in 1815 to regulate the construction of carts and other conveyances, but its provisions were not found efficient to protect the public roads from the damage done by the narrowness of the wheels of such conveyances. It was, therefore, ordained by Rule, Ordinance and Regulation I of 1818 that 'from and after the first day of April 1818, the sole or bottom of the fellies of the wheels of all labour carts or vehicles, and of all pleasure hackeries, or other native conveyances, by whatsoever name or names the same now are or shall be called, not having springs, shall be of a breadth not less than three inches, running on a plane surface.' The minimum width prescribed for the fellies of hackeries and carts on springs was two inches. Each cart was to be numbered and no cart was to be driven or otherwise used without the number, assigned by the assessor, being affixed on the cart.

In the issue of the *Bombay Courier* of 27th November 1819, we find the following notification, dated 22nd November 1819, published by the order of the Court of Petty Sessions :—

'Notice is hereby given that the Assessor of wheel-tax has been directed by the Court of Petty Sessions, agreeably to Article 38 of Rule, Ordinance, and Regulation II of 1815, to furnish a badge on payment of a quarter of a rupee for each badge supplied to each and every pleasure hackery, bullock hackery and common labour cart, and all persons keeping or using such conveyance are hereby informed thereof and requested to apply to the assessor thereof. In default the parties will be subject to such fines as the Court of Petty Sessions may determine.

'It is further notified that all horse hackeries and bullock hackeries and labour carts will be subject to tax so long as the badge or badges issued shall remain in the possession of the owners and therefore any person who may sell, give away, or otherwise divest himself of the property are requested to report the same to the assessor returning the badge supplied.'

TOWN BOUNDARIES. The question of fixing the limits of the town was a source of friction between the Justices and Government. In the year 1813 Government had issued a proclamation, under the authority of Statute 33, George III, Chapter 52, reducing the limits of the Town to the walls of the Fort. The Justices declined to acquiesce in the curtailment of the limits and, fortified by legal advice that the functions of the Governor-in-Council as to fixing the limits of the Town under the statute had been exhausted when they originally marked out the limits, they continued to levy the assessment to the extent of two miles from the Fort, which they considered to be the established limits of the Town. Subsequently, Government appears to have accepted the validity of the Justices' contention, as may be gathered from the subjoined notification dated 15th December .1819, published in the *Bombay Courier*, extending the limits of the town.

LIMITS OF THE TOWN OF BOMBAY

Order in Council. Dated 15th December, 1819.

'Whereas by an Act of Parliament passed in the 55th year of His Majesty entitled an Act to amend so much of an Act of the 33rd year, as relates to fixing the limits of the towns of Calcutta, Madras and Bombay, be it therefore known that the Governor-in-Council has determined with the sanction and authority of the Court of Directors and the approbation of the Board of Commissioners to extend the limits of the said town and does hereby with the like sanction and authority declare and prescribe that from and after the 1st January, 1820, the extended limits of the town of Bombay shall be as follows: i.e. commencing on the

Backbay side just without the skirts of Girgaum and running in a north, north-easterly direction across the Parel Road to the south-eastern angle of the late Sir Miguel de Souza's garden wall, then taking a circuitous route including within these bounds the villages of Mazgaon but excluding the Company's dockyards at that place, at the south-eastern angle at which they are terminated by the shore of the harbour.'

Between the years 1820 and 1827 no noteworthy regulation appears to have been issued, excepting Rule, Ordinance and Regulation I of 1820 'for establishing an effective control over the Shipping resorting to the Port of Bombay, for preventing the desertion of the Crews of ships, the European Soldiers of the Garrison offering themselves as seamen, and for the security of the Harbour and Dock-Yard of Bombay.'

Rule, Ordinance and Regulation I of 1827 repealed so much of Rule I of 1814 as authorized the infliction of corporal punishment on servants and hamals.

Rule, Ordinance and Regulation II of 1827 defined and extended the powers and jurisdiction of the Court of Petty Sessions and of Magistrates of the Police and amended and consolidated into one rule the provisions relating to such powers and jurisdiction. It repealed Rule I of 1812, but almost all the provisions of that rule were incorporated in the new rule with certain amendments and additions. The provisions relating to idle and disorderly persons and rogues and vagrants are of special interest. Articles 1 and 2 of Title Fifth of the Rule ran as follows :—

Article 1. 'The said Court of Petty Sessions shall exercise like power of summary conviction in all cases of persons found commonly loitering or wandering about in places of public resort, who, being able to obtain employment whereby they may maintain themselves, shall refuse or neglect to be so employed, and shall not, upon due examination before such Court, or before the Justice or Justices before whom they shall appear, as

hereinafter provided, give a satisfactory account of themselves or of their means of livelihood; and they shall exercise like jurisdiction in all cases of persons wandering about by night in the public streets or highways, and not giving a good account of themselves; such offences to be punishable by imprisonment with hard labour for any time not exceeding one month.'

Article 2. 'The said Court shall exercise like jurisdiction over all imposters and pretenders to magical or other preternatural powers, and common gamblers, who shall not give a satisfactory account of any other means of livelihood; such offenders to be punishable by fine not exceeding fifty rupees, or in lieu thereof, imprisonment with hard labour for any time not exceeding one month.'

In addition to the provisions of Rule I of 1812 regarding trades which might be instrumental to the commission of crimes, referred to in Chapter VIII, this rule made keepers of public-houses punishable for affrays therein. Article 3 of Title Eighth dealing with this offence ran as follows:—

'All keepers of taverns, spirit-houses, opium or bhang-houses, or gambling-houses shall be punishable in like manner, who permit any affrays, assaults, or other violences to be committed in their houses, or who shall not use their endeavour to preserve the peace therein.'

It will be seen from this clause that gambling-houses were licensed in those days. Those dens of vice flourished until the year 1851 when by Act IX of that year the keeping of gambling-houses was prohibited.

Regulation XIX of 1827, passed by the Governor in Council on 1st January 1827, prescribed rules for the assessment and collection of the land revenue and for the collection of the taxes on shops and stalls, on beating the Battakee or making proclamation by the crier, on country music, on wedding sheds and places of public amusement, on houses and carriages and horses; for giving notice to the Collector of Bombay of

the transfer of properties and for the levy of fees in the Court of Petty Sessions and Police Offices. A supplemental regulation was issued in the same year—Regulation XXXII of 1827—for increasing the taxes on carriages and horses. How heavy the impost was for the use and enjoyment of the roads, such as they were in the past century, will be seen from the following table :—

'On every four-wheel carriage, four rupees per month.

On every two-wheel carriage on springs, three rupees per month.

On every two-wheel carriage without springs, except such as are drawn by bullocks, two rupees per month.

On every two-wheel carriage used for riding, and drawn by bullocks, one rupee and a half per month.

On every two-wheel carriage used for carrying loads, and drawn by bullocks, if the wheel be of the breadth of two inches and a half, one-quarter of a rupee per month.

If the wheel be narrower than above specified, three-quarters of a rupee per month.

On every riding horse, one rupee and a half per month.'

Between the years 1827 and 1833 no noteworthy Rule, Ordinance and Regulation was issued by the local Government. The last Rule, Ordinance and Regulation on record is Rule I of 1834 for amending certain provisions of Rule II of 1827 regarding the powers and jurisdiction of the Court of Petty Sessions and of the Magistrates of Police. With it came to an end the era of local legislation in Bombay.

CHAPTER XII

A SURVEY OF THE GROWTH OF BOMBAY

BEFORE, however, we pass on to the new era we may pause to survey the growth of the city which led to the activities in local legislation we have noticed. Just about the first quarter of the nineteenth century the Island of Bombay was emerging from the position of a mere trade settlement into that of the Gateway and Capital of Western India. By the end of the eighteenth century the outposts of the British had advanced as far as Thana on the East and Bassein on the West. The Bombay Marine was supreme along the Malabar Coast. The Peace of 1805 ' left Bombay in possession of political authority almost co-extensive, if we exclude the province of Sind, with that which she now enjoys. She supplied subsidiary forces to the Gaekwar of Baroda and the Peshwa, and garrisoned the Portuguese City of Goa, occupied by the English during the continuance of the French War.' During his visit to the Island in 1804 General Wellesley could with legitimate pride boast of the increasing channels of wealth which his conquests had opened to the opulent settlement of Bombay.[1] Free from commercial rivalry on the part of other European nations or interference from native powers the trade of the port showed a steady rise. What internal improvements were made we have already noticed. The postal communications which were established and the construction of the Sion Causeway which connected the Island with Salsette gave a further impetus to trade. Naturally, the trading communities migrated to the island in larger numbers during these years.

[1] *The Rise of Bombay*, p. 222.

'From 1803 onwards,' observes Edwardes,[1] 'dwelling-houses, godowns, shops, and markets began to rise, the original nucleus of our Mandvi, Chakla and Oomerkharry Sections. The present Secretary of the " Dassa Oswal Jain " Community informs us that by 1800 there were some six or eight families of that class, settled in what we now know as Dongri Street; and that in immediately succeeding years, there were fresh arrivals from Cutch, tempted to the island by the prospect of fair trade, who bought land, built houses, and generally laid the foundations of one of the most prosperous of our modern commercial classes. The Parsis were in no wise behindhand: a considerable list of names, which it would be but tedious to recall, has been handed down to us, proving that the ancestors of several families, well-known in these days, were in Bombay by the year 1814. Lavji's grandson, Jamshedji Wadia, was carefully guarding the reputation which his sire and grandsire had bequeathed, and earning the golden opinions of the ruling body by building first class frigates for the Indian Marine, and stout vessels for such friendly powers as the Imam of Muscat. The *Jan-i-Bambai* (i.e., the Soul of Bombay), a Persian pamphlet written in 1818 by an anonymous Mughal scribe, speaks of the Memons as sellers of fuel, and of one " Abba Fateh Muhammad " as the headman of that community. The Khojas are also mentioned as hawkers of parched rice. Notwithstanding that the Bohras and other Mahommedan communities were permitted to reside within the Fort, a considerable number of " Moors " must, by the close of this period, have gathered round the four main " bandars " or ports of the Island, namely the Bori Bandar (now the Victoria Railway Terminus), the Koli Bandar or Gowli Bandar, the Masjid Bandar, and the Chinch Bandar. . . . A survey of the Fort population was made in 1813, whence it appeared that 10,801 persons were dwelling within the walls. Of these, 250 were English, 5,464 were Parsis, 4,061 Hindus, 775 Moors, 146 Portuguese and 105 were Armenians. On deduction of these figures from the total population of the island, one may assume that the extra-mural population was roughly 1,70,000; and allowing twenty or thirty thousand persons to the Mahim district, it seems probable that there were about one hundred and thirty or one hundred and forty thousand resident between the Bazaar Gate in the south

[1] *Rise of Bombay*, pp. 236-238.

and the Parel village and the Mahalakshmi temple in the north.'

The abolition in the year 1813 of the East India Company's monopoly for trade in India gave decided encouragement to the commerce of the island. To quote one item only, the export in raw cotton rose from 30 million lbs. in 1809 to 90 million lbs. in 1816. At the same time the march of political events stimulated internal trade.

The annexation of the Dekkan, consequent on the dethronement of the dynasty of the Peshwas in 1818, led to free and uninterrupted trade between the port and the mainland. Writing about the middle of the year 1825, Bishop Heber says: 'Bombay is the port from whence almost all the trade of the west and north is shipped from China and England; there are several ships building in the slips, and the whole place has the appearance of being a flourishing commercial sea-port.' The lay-out and architecture of the place, however, did not make a favourable impression on the Bishop.

'The island, as well as most of those in its neighbourhood,' he observed, 'is apparently little more than a cluster of small detached rocks, which have been joined together by the gradual progress of coral reefs, aided by sand thrown up by the sea, and covered by the vegetable mould occasioned by the falling leaves of the sea-loving coco. The interior consists of a long but narrow tract of low ground, which has evidently been, in the first instance, a salt lagoon, gradually filled up by the progress which I have mentioned, and from which the high tides are still excluded only by artificial embankments. This tract is a perfect marsh during the rainy season, and in a state of high rice cultivation. The higher ground is mere rock and sand, but covered with coco and toddy-palms where they can grow. There is scarcely any open or grass-land in the island, except the esplanade before the fort, and the exercising ground at Matoonga, which last is the head-quarters of the artillery. The fort, or rather the fortified town, has many large and handsome houses, but few

MOUNTSTUART ELPHINSTONE

The Governor who laid the foundations of public instruction in Bombay.

European residents, being hot, close-built, with narrow streets, projecting upper stories and rows, in the style which is common all over this side of India, and of which the old houses in Chester give a sufficiently exact idea. The Bombay houses are, externally, less beautiful than those of Calcutta, having no pillared verandahs, and being disfigured by huge and pitched roofs of red tiles. They are generally speaking, however, larger, and on the whole better adapted to the climate.'

During this eventful period there was at the helm of affairs of the Presidency a statesman of rare discernment, Mountstuart Elphinstone. He was very anxious to facilitate the intercourse of the inhabitants of the island with the Dekkan and to develop its trade in that direction. The road constructed up the Bhor Ghat in 1803 by General Wellesley, for the convenience of his transport, had been deliberately destroyed by the Peshwa. Elphinstone, therefore, issued orders for the construction of a good carriage road up the Bhor Ghat. The work, commenced in his administration, was completed by his successor, Sir John Malcolm, who opened the Ghat on 10th November 1830. In the course of the speech he made on that occasion he said: 'It will give facility to commerce, be the greatest of convenience to troops and travellers, and lessen the expense of European and other articles to all who reside in the Dekkan.'

By far the greatest boon conferred by Elphinstone on Bombay was the deliberate policy of education on which, prompted by a high sense of duty and honour, he manfully embarked, undeterred by gloomy forebodings of its consequences to the alien rulers.[1] 'On this side of India,' observed Bishop Heber after personal observation and investigation, 'there is really more zeal and liberality displayed in the improvement of the country, the construction of roads and public buildings, the

[1] See Chapter xxxi—The Story of the School Board.

conciliation of the natives and their education than I have yet seen in Bengal.' 'No government in India,' he observed elsewhere, 'pays so much attention to schools and public institutions for education. In none are the taxes lighter, and in the administration of justice to the natives in their own languages, in the establishment of *punchaets*, in the degree in which he employs the natives in official situations, and the countenance and familiarity he extends to all the natives of rank who approach him, he seems to have reduced to practice almost all the reforms which had struck me as most required in the system of government pursued in those provinces of our Eastern Empire which I had previously visited.' Richly, no doubt, did Elphinstone deserve this encomium. But his enlightened policy was not pursued by his successors with the same zeal and diligence, so that even after a century the results of the educational work inaugurated by that far-sighted administrator are not very creditable. The progress of education in the Presidency immediately after the enunciation of the policy and even up to the present day might by sustained effort have been much more rapid and more widely diffused. In 1824 there were in the whole Presidency 1,600 schools with about 32,650 scholars; in 1923 there were 11,402 elementary schools with about 806,440 pupils. What a poor output after a century of effort! The population of the Presidency being nineteen and a quarter millions, only seven per cent are literate! One can think of no more humiliating feature of the British rule in India than this.

So much for vernacular education. English education was unheard of at the beginning of the last century In 1822 was established the Native Schools and School Book Society in Bombay; in 1823 an English school was opened in Thana; and in 1824 was opened in

Bombay the Native Education Society's English School, out of which grew the Elphinstone School and the Elphinstone College. There were, therefore, hardly any English scholars in Bombay a hundred years ago, and of this we have indirect evidence in the diary of the French missionary, the Abbé Cottineau de Kloguen, from which Da Cunha has given interesting extracts in his paper read before the Royal Asiatic Society on 15th September 1893. The Abbé came to Bombay in 1827. About the same time the Literary Society of Bombay, founded on 26th November 1804 by Sir James Mackintosh, was incorporated with the Royal Asiatic Society of Great Britain and Ireland, and its designation changed to that of the Bombay Branch of the Royal Asiatic Society. In this Society the Abbé made the acquaintance of many scholars, but 'there was not a single Indian member then except Sir Roger da Faria, all the rest being Europeans.' While in India, the Abbé wrote his classic *Historical Sketch of Goa.* After a scrutiny of subscribers to this work Da Cunha observes that most of them were Bombay men, but not a single Parsi, Hindu, or Mussulman. 'Probably,' says the erudite author of the paper, 'in those days none of these sections of the Bombay community read English.'

We may now notice some of the improvements made within the limits of the island during this era. The most remarkable was the construction of the Colaba Causeway in 1838. Colaba and Old Woman's Island were the last vestiges of the original cluster of seven islands to be absorbed into the Island of Bombay.[1] As

[1] Colaba was not ceded along with the island of Bombay to the British Crown. It was purchased by the Company in 1674. Antonio Bocarro refers in the year 1634 to Colaba as the islet called *Candil* which in Aungier's time had become *Coleo*, the origin of the term being traceable to the aboriginal race of the Koli fishermen one of whose hamlets was located here in early times. As late as 1827 it was called 'Old Woman's Island'. (Da Cunha, *The Origin of Bombay.*)

early as 1796 it was declared by Government that they had never intended that 'houses of permanent construction should be built on the island, which was a place for cantonment for the troops.' The Abbé Cottineau was appointed military chaplain of Colaba in the year 1828. There being no residence attached to the chapel, he was invited by Mr. Curning, the astronomer in charge of the Colaba Observatory, and a Roman Catholic, to put up with him for some time, which he did, and then went to reside at what he calls *Le Petit Colaba* in a house belonging to Mr. Liebschwager. The journey from the Fort to Colaba was far from easy. And no wonder, for the island was then connected with Bombay by a narrow pier which was covered with water at high tide. To quote the graphic description given by Mrs. Postans: 'A rocky sort of way, about a mile in length, connected this tongue of land with Bombay; which at high tide was covered by the rolling flood. Many have been the luckless wights, who, returning from a festive meeting, heedless of Neptune's certain visit, have found the curling waves beating over their homeward path, compelling them to seek again the "banquet hall deserted," and beg a shake-down at the quarters of their host. The more impetuous have sought to swim their horses across this dangerous pass, and lives have been lost in the attempt.'[1] When, however, ten years later, she visited the retired spot whose dullness was redeemed by the health-inspiring breezes which played around its shores, she found that the Causeway had been built and that a good road ran to the extreme end of the island on which stood the lighthouse and the lunatic asylum.

This era also witnessed what Mrs. Postans calls 'the new Apollo or the Customs House bunders,'

[1] *Western India.*

i.e. the extension of the Wellington Pier or Apollo Bunder[1] in the year 1819. The first stone of the Mint was laid on 1st January 1825, and soon afterwards the hat went round for funds for the erection of a Town Hall. In 1811 a proposal to build a Town Hall emanated from James Mackintosh, 'the object in view being to provide a suitable building for public meetings and entertainments, and also to make a home for the library and museum of the Literary Society, and for the reception of statues and public monuments of British art.' 'Lotteries were established,' says Edwardes, 'one in 1812, another in 1823, in the hope of raising sufficient funds for the buildings, a site for which was obtained from the Directors of the Company in 1817, but eventually it was found necessary to hand over the work, commenced in 1821, to Government, who provided funds for its completion in 1833.' It was in this Town Hall that the Elphinstone Professors, who arrived in Bombay in 1835, commenced their nation-building work.

[1] Many an antiquarian has speculated on the origin of this name. It is derived by some from *Polo*, which is traced to *Pāla*, which again, according to Sir M. Westropp, is said to have been drawn from *Pāl*, which is taken to mean a large man-of-war. Sir James Campbell derives it from *Pālav*, from a boat called by the name in Java. Another suggested origin of the name is the Marathi *pādav*, which means a small light boat. Da Cunha, however, says that neither Pāl nor Pālav seems to be the correct origin of the word. Pāl does not mean a 'large fighting vessel.' The real word in the vernacular of the Bombay aborigines is *pāllav bandar*. *Pāllav* in Marathi means a cluster of shoots or sprouts, also 'an embellishment,' and *Bandar* means 'a harbour' and also 'a sea shore.'

After the additional light thrown on this question by Edwardes in an interesting article in *Indian Antiquary*, vol. lii, November 1923, there appears to be little doubt that Da Cunha was correct. Edwardes points out that in an old map of Bombay Girgaum Road is shown as 'Pallow Road' and further that 'Pallavam' is a Tamil and Kanarese word which in very ancient times was used to denote the Jaffna Peninsula in Ceylon, owing to the fact that that spit of land extended from the mainland like a 'sprout' or 'shoot' (*pāllavam*), just in the same way as Mendham's Point extended in a narrow strip from the island of Mumbai in old times. This outjutting tongue of land is clearly marked in Fryer's map of 1672 and in a Bombay map of 1724, and occupies the same position towards Bombay that *Mani-pāllo*, or the Jaffna Promontory, did to Ceylon. The application of a Tamil and Kanarese word to a portion of Bombay is not surprising. There was a large Dravidian element in the population of Bombay in ancient times and in even more remote times the seamen of Tamil land must have sailed up the western coast. The fact that 'Apollo' is written 'Pallo' and 'Pallow' in old documents of the British period points to the same conclusion.

CHAPTER XIII

FRICTION BETWEEN THE GOVERNING BODIES

How the machinery of municipal government introduced by the enactments reviewed in the preceding chapter, worked, how harmonious the relations of the different governing bodies were, and what measure of liberty the Justices enjoyed, we have no means to ascertain. A few recorded incidents, however, seem to suggest that the course of local government did not always run smoothly.

There appears to have been perpetual friction between the local body (the Bench of Justices) and Government almost from the dawn of municipal government in the city. For instance, we find from the minutes of the Justices for the years 1809 and 1810 that there were serious disputes between Government and the Bench concerning bills for road repairs. The Governor asked that the Causeway between Sion and Mahim should be repaired as he rode that way 'almost every morning.' The reply of the Bench may be summarised in these words: 'First pay up our dues (about Rs. 12,000) and we will do so.'

Conflict with the Courts of Justice was also not uncommon. The Bench of Justices had the option to call for copies of proceedings of the Court of Petty Sessions, but the Court had also the option to refuse to comply with the requisition, so that not infrequently the Bench was informed that its request could not be complied with. Instances of friction with the Judges of

the Supreme Court are also on record. The Judges considered that they had a voice in all matters. The highest officers of the East India Company were weary of the interference and overbearing attitude of the Judges, so much so that Malcolm once wrote: 'I have tried to deal some heavy blows at these costly and dangerous fabrics yclept Supreme Courts; but they are too essential . . . to feed the rising spirit of the age, for me or for any man to prevail against them.'[1] If the Judges could thus defy the Government itself—and they could afford to do so, as at the outset the intention of the Crown in setting up the Supreme Court was that it should serve as a check upon the Company's government—they considered they had every right to control the proceedings of the Bench of Justices.

In the year 1833 the Bench adopted a report of its Committee on the question of lighting the streets of the city. In this report the Committee expressed its unanimous opinion that under Statute 33, George III, Charter 52, the Bench possessed the authority to light the streets 'as a means for the effectual watching of the streets of the Town and Island' as well as for the security, comfort and convenience of the inhabitants, and recommended that the Bench should invite tenders for making, providing and fixing lamps, posts, etc. The Chief Justice, however, was of opinion that the resolution of the Bench was illegal. He told Colonel Dickenson, the Superintendent of Roads, that the contemplated lighting of the principal streets by the Bench was illegal as it was not provided for by the Act of Parliament from which the Bench derived its powers. For the same reason, he urged, the watering of roads and streets was illegal, and His Lordship summed up by saying that the

[1] Kaye, *Life of Sir John Malcolm*.

assessment funds were not available for any purpose other than those provided for by the Act, until the cleansing, watching and repairing of the different public thoroughfares were carried out to the utmost, which was not the case. The lighting of the streets was, therefore, stopped temporarily and the Bench informed of His Lordship's opinion. In W. C. Bruce, however, the Bench then possessed a Chairman of resolute will and sturdy independence. He indited the following minute on the question :—

'The opinion here given with respect to the contemplated lighting up and watering the principal roads and streets, being an extra judicial one, with every deference and respect for the high authority it comes from, it appears to me, that it will be time enough to yield obedience to it, when it is delivered *ex cathedra* or from the Bench, and that we should be wanting in self-respect and ill discharge the duty we owe to the public were we to allow ourselves to be governed in this or any other matters placed by law under our "orders and directions" by the sentiments (expressed in a private conversation) of any individual, however eminent his station, more especially, when they are so very contrary to what would seem to be the plain meaning of the Act of Parliament.

'In the words of the Act, the funds under the control of His Majesty's Justices, are to be employed in "effectually" cleansing, watching and repairing the streets, as they (the Justices) "shall judge necessary." Now, how, I shall be glad to know, can the streets be "effectually" watched at night or *warded* either, unless they are lighted? And at all events all must agree that if they *were* lighted, they would be more "effectually" watched than if it were not so, and with respect to watering the roads, I can conceive nothing more essential to their "effectual" repair, exposed as they are, during all the fair season, to the joint action of a burning sun and of frequent high winds; the one reducing the materials to an impalpable powder and the other scattering it to the four quarters of the heavens, both of which effects are greatly counteracted, and the comfort of the inhabitants promoted, in a degree, at the same time by this admirable contrivance. Indeed, there can be little doubt, I should think, of

its causing an actual saving instead of an additional charge. This, however, can readily be ascertained by calling upon the Superintendent of the Roads for a statement of the comparative expense of repairs for a given time, before and since it was first introduced, which I would accordingly recommend being done.

"Upon what may be the legal acceptation of the terms "watching" and "repairing" I do not presume to offer an opinion, but I humbly submit that both "lighting" and "watering" are clearly within the common sense meaning so far as relates to the roads.

'By consenting to surrender its own judgment to a dictum so interposed, the whole authority of the Bench may, ere long, be wrested from it since—by a little forced construction—many of its other acts might similarly be pronounced to be contrary at law. What is to prevent other repairs, for instance, as well as much of what is considered requisite with a view to cleansing the roads, from being declared by the present or future Chief Justice, as not properly coming under those two denominations.

'Under these circumstances, without intending the smallest disrespect to the Honourable the Chief Justice, I propose that directions be given to proceed as usual in the watering of the roads and streets and that the plan of lighting the principal roads and streets, which had been commenced, but was suspended in consequence of what fell from the Chief Justice in conversation with the Senior Magistrate of Police, be resumed.'

The other Justices concurred in the opinion expressed by the Chairman and the Bench accordingly allowed the work of watering and lighting the streets to proceed. The question then came before the Supreme Court and judgment was given to the effect that the application of any part of the Assessment Funds to the lighting of streets was contrary to the meaning and intent of the Statute 33, George III. The lighting was thereupon stopped.

Mr. Michael gives another instance of dissension with the Judges. On 8th October 1883, the Judge of the Supreme Court wrote to the Clerk of the Peace

requesting that they might be furnished with a statement of the income and expenditure of the Assessment Funds for one year ending on the day on which the account had been made up, and a copy of all orders relating to the Assessment Fund together with a report whether any, and, if so, what streets were from deficiency of funds in want of a firm and well constructed road or path to make them safely and conveniently passable. The Bench promptly replied expressing 'their extreme regret that they felt precluded by a sense of public duty from affording the information called for, being of opinion that their compliance with such a requisition would be a virtual recognition, which they were not prepared to admit, on the part of the Honourable the Judges of the Supreme Court to exercise, at all times and in any manner they might think fit, a control over the collection and disposal of those funds which had been vested by the legislature in His Majesty's Justices of the Peace and for which they conceived they were answerable to a higher authority in the event only of complaint being preferred against them by individuals who deemed themselves aggrieved by their acts.' Whether the Judges took any further action in the matter is not known. Evidently, on this occasion the Bench carried its point.

William Bruce's chairmanship was distinguished for another violent clash of arms. On this occasion he was embroiled in a conflict with the head of the Government. In a letter addressed to the Bench His Excellency the Governor stated that it had been proposed to appoint as Superintendent of Police a Military Officer who was also to be the Collector of Assessment. The Bench submitted that the claim for compensation of the Collector of Assessment, Mr. Notan, should be recognized. Government, however, declined to enter

into any specific arrangement, although they said they would consider the claim. Not satisfied with this reply the Bench sanctioned temporarily the payment of a compensation of Rs. 200 per mensem to Mr. Notan. His Excellency the Governor was indignant. He sent for the Chairman. What happened may be described in the intrepid Chairman's own words :

'His Lordship commenced by alluding to a former interview at Parell, regarding the arrangement lately carried into effect of uniting the Superintendent of Police with the office of the Collector of Assessment and went on to say that he had then distinctly stated that in the event of H.M.'s Justices consenting to that arrangement no remuneration was to be granted to Mr. Notan, but that there must be a clear saving in the charges of collecting those funds of 5 per cent, that to his great surprise, however, he had lately learnt that upon a motion by me to that effect compensation had been granted to that gentleman which his Lordship observed he considers as an underhand proceeding, that he could view it in no other light than a job, and that he had been deceived in the matter as he would rather have continued Mr. Notan in the situation of Collector with a remuneration of 7½ per cent, could he have imagined that the arrangement which transferred that duty to Captain Shortt would have been so vitiated as he now conceives it to be ; that it must besides have a most unfavourable appearance to the Hon'ble Court of Directors as his Lordship in reporting to them what had taken place had informed the Hon'ble Court that there would be an immediate saving of 5 per cent in the former charge for collecting the assessment. His Lordship then appealed to me as a man of honour to say whether I had not fully understood from what he had said at the former interview that it was one of the conditions of the arrangement in question that the Bench of Magistrates was to make no pecuniary grant to Mr. Notan. His Lordship ended by saying that if the proceeding was not annulled, he would take serious notice of it.

'In answer to these observations of His Lordship I stated that the compensation granted to Mr. Notan had not originated in a motion from me, but in an application from Mr. Notan himself to the Bench some weeks subsequent to the decision

which transferred his appointment to the Superintendent of Police and that I had done no more than a great majority of H.M.'s Justices (who all viewed the case, particularly under the circumstances brought to their notice in Mr. Notan's application, as one of great hardship) except in being the first, from holding the situation of Chairman, to give it my support. That the amount of compensation awarded had been on so small a scale that there would still be an immediate saving of 2½ per cent and that a saving to the full extent contemplated by His Lordship would ultimately be effected. That with respect to its being a job, I had no private end to serve by what had been done and as it would appear in the disbursement side of the assessment account periodically published in the Government Gazette, I respectfully submitted that it could not be considered as underhand. To the appeal made to my honour I answered that I perfectly remembered His Lordship arguing that the private interest of individuals ought always to give way where those of the public were concerned and that the Government could grant no immediate compensation, but that I never understood from anything that had fallen from His Lordship that there was any misunderstanding on the part of His Lordship or anything in the shape of a condition that H.M.'s Justices were to be debarred from granting any compensation if they thought proper to do so, otherwise I certainly should have thought it my bounden duty to have communicated it to the Bench, upon the receipt of Mr. Notan's application.

'Having thus communicated His Lordship's sentiments, it is of course open to you, should you think proper, to revise your decision upon the subject. With respect to myself, I have only to observe that the opinion expressed in my minute upon Mr. Notan's application is unchanged, as I never before heard of an appointment being taken from one person to be given to another, unaccompanied by some compensation, unless it had previously been forfeited by incapacity or misconduct and this is in fact absolutely necessary, as I conceive to give proper confidence to public men which they could obviously never have if liable at any time to be turned loose upon the world without some provision.'

In those days, however, the Governor's word was law. The Bench, therefore, acted on the principle that

discretion was the better part of valour. The clash between the Pope and the King ended in the defeat of the Pope. The compensation to Mr. Notan was withheld and the redoubtable Mr. Bruce forthwith tendered his resignation of the office of Chairman. One looks in vain for a memorial recording this act of martyrdom. Not even a portrait of the worthy Chairman adorns the walls of the Council Hall.

CHAPTER XIV

A CIVIC HEPTARCHY

CONTINUAL friction between the Bench of Justices and the local authorities compelled the Government of Bombay to devise a more workable machinery for municipal administration. In a letter, dated 12th August 1836, Mr. Secretary Willoughby forwarded to the Bench amended regulations for the management of municipal affairs in Bombay which Government intended to issue. These regulations did not, however, meet with the approval of the Bench. They apprehended that the proposed regulations 'would have the effect of transferring from His Majesty's Justices of the Peace the chief duties now vested in them by Act of Parliament to the Board to be constituted by the said regulations.' Even in those early days the convenient device of shelving questions by a reference to committees was not unknown. A committee was, therefore, appointed to consider and report on the communication. The committee's report cannot be traced; probably it never submitted its report, but it seems that the Government of Bombay, without waiting for a reply from the Bench, submitted to the Government of India a draft scheme for remodelling the constitution and functions of the Bench. The Board thereupon recorded their protest in the following terms:

'That the Worshipful Bench record their regret that the Government of Bombay should have shown so little consideration for and courtesy towards the Bench of H.M.'s Justices of Bombay, in a matter involving one of the highest privileges conferred on them by Act of Parliament, connected also with some of their Chief duties (that of disbursing the Assessment

Fund for the benefit of the inhabitants of the Island) as without any previous communication or intimation of any sort whatever to the Bench, to have sent to Calcutta a draft Act, depriving the Bench of their privilege and duty and leaving H.M.'s Justices to be first made aware of this by the republication in the Government Gazette of the Draft Act having the above object.'

This scheme for the reorganization of the municipal machinery took a considerable time to mature. Before the Bombay Government's proposals were submitted to the Government of India, they had under consideration the general question of providing funds for the promotion of the sanitation, comfort and security of the principal towns throughout the country. They were of opinion that some general plan should be devised to meet the municipal expenses for improvements, and, with a view to obtaining the best available material for coming to a decision on the subject, they had asked the local governments to furnish various particulars concerning the system of municipal administration in vogue in their respective districts, the sources of revenue and other matters. The information elicited by the Bombay Government concerning the Presidency town was not sufficient to enable them at once to frame a general plan of municipal government for the whole country. The preliminary enquiries which they considered essential to the formation of such a scheme were not completed till the year 1840. Meanwhile, their proposals for changing the old order of things had been, as we have already noticed, submitted to the Central Government. Nothing, however, was done in that direction till the year 1845 when an epoch-making change was introduced in the system of local government in Bombay. Before we come to that landmark, a few important Acts passed by the Government of India during the interval may be noted.

Of these the most important was Act No. XXVIII of 1839 'for the regulation of buildings in the islands of Bombay and Colaba.' Many of the building regulations now in force were foreshadowed in this enactment. The Act required owners of buildings to obtain, before erecting or altering buildings, two certificates, one from the Collector of Land Revenues as to the specific ground intended to be used and the other from the Surveyor to the Court of Petty Sessions as to the nature of the work proposed and allowed to be executed. Parties aggrieved by the decision of the Surveyor had the right of appeal to the Court of Petty Sessions. The maximum penalty for proceeding with building operations without a certificate was Rs. 500. Any one tampering with a certificate was punished on conviction before the Court of Petty Sessions by a fine not exceeding five hundred rupees or by imprisonment in the House of Correction for a period not exceeding four months with or without hard labour. The height of buildings was restricted to 50 feet irrespective of the width of streets.

Section 30 of the Act deserves special notice. It made 'every head builder, master carpenter, master mason or labourer,' who knowingly offended against the provisions of the Act, punishable on conviction before the Court of Petty Sessions by fine not exceeding five hundred rupees.

The Court of Petty Sessions had the power to acquire land for public improvements. The compensation for the acquired land was to be fixed by the Surveyor subject to the sanction of the Honourable the Governor in Council. If an owner refused to accept the price, the Court of Petty Sessions was to have the value of the property or interests for which compensation was to be given 'ascertained by a jury of twelve indifferent men resident on the island to be summoned by the sheriff' in

the manner prescribed by the Act, which in effect was practically the same as that followed in empanelling juries for the trial of criminal cases.

Act No. XIV of 1841 for the better regulation of markets in the islands of Bombay and Colaba prohibited the sale of unwholesome meat and other noxious and deleterious provisions and the use of false weights and measures.

Act No. XIV of 1842 was passed for 'giving greater facility in the abatement and prosecution of nuisances in and through the towns and islands of Bombay and Colaba.' It prohibited nuisances by the deposit of offensive matter on open spaces contiguous to public thoroughfares or on roofs or weather-boards, required owners of houses to provide suitable drains and to shut out privies from public view and forebade bathing or washing animals or clothes or otherwise fouling public tanks and wells. The Governor in Council was empowered to declare by proclamation what tanks or wells should be deemed public and also which of such public tanks or wells might be used for the purpose of bathing or washing linen therein. The Act required coffee shops, eating houses and places of public resort to be licensed and empowered the Court of Petty Sessions to require persons keeping brothels or lodging houses for disorderly characters of any description in prominent public streets to shut up the same or to remove such tenants from the premises.

Act No. V of 1844 declared lotteries not authorized by Government to be public nuisances. It would be interesting to know what lotteries were hallowed by the sanction of Government.

We now come to the memorable Act No. XI of 1845 which constituted a civic heptarchy 'for the better collection, management and disbursement of certain

public funds and monies for police and municipal purposes throughout the islands of Bombay and Colaba.'

This Act created a 'Municipal Fund' in lieu of the 'County Fund.' It was enacted that the terms 'Police Fund,' 'County Fund' and 'Assessment Fund' used in any Rule, Ordinance or Regulation, or in any Act of the Government of India in force in the islands of Bombay and Colaba, should be taken to mean the 'Municipal Fund.' All sums received from the tax on houses and lands, shops or stalls, etc., all fines and penalties levied by the Court of Petty Sessions, by the Magistrates of Police and any of the Justices of the Peace, all sums (after deduction of cost of management) collected on the granting of licences for the sale of spirituous or other liquors within the town and all unpaid balances which at the time of the passing of the Act were in the General Treasury to the credit of the County or Assessment Funds, or in the possession of the Court of Petty Sessions or of the Magistrates of Police or any of the Justices of the Peace, were to be credited to this Fund.

The Fund was 'placed under the supervision and control of Her Majesty's Justices of the Peace in Sessions assembled or such other persons as to the Government of Bombay might seem fit' and for administering the Fund and carrying the provisions of the Act into effect an executive Body was formed, denominated the Board of Conservancy, composed of seven members, of whom the senior Magistrate of Police was Chairman, and the Collector *ex officio* a member, two European and three 'native resident Justices' elected by the Bench of Justices or by such other persons as Government might appoint to supervise and control the Fund. These elected members were to remain in office for a period of three years but were eligible for re-election on the expiry of that period. Thus the Bench had only nominal

control and supervision of municipal affairs. All executive authority was vested in the Board of Conservancy whose annual reports were made not to the Bench but to Government. Its duties were, however, distinct from those of the Court of Petty Sessions and it had, therefore, no penal powers to enforce its requisitions. This arrangement separating administrative from judicial functions was in those days looked upon by the executive as an element of weakness and a retrograde step.

A few other provisions of this Act, which are of special interest, may be noted. Section III of the Act required every person 'chargeable with any rate or tax on account of any houses, buildings or grounds, or of any shop or stall, or of any carriages, carts, or horses, or any other matter or thing,' to make a true return in writing 'of the annual value of all such buildings, houses and grounds, and of all such shops or stalls, carriages, carts, or horses and other matter or thing.' A person refusing or neglecting to deliver such return within a week, or making a false return, was liable to a fine not exceeding two hundred rupees.

Section V authorized the Collector of Land Revenue of Bombay 'to make a quarterly assessment on each and every shop and stall within the islands of Bombay and Colaba' according to such rates as the Governor in Council should fix by proclamation in the Government Gazette. In pursuance of this section a proclamation was issued on 1st August 1845.

Section VI exempted from the payment of assessment 'all religious edifices, all temporary houses, bungalows, or other temporary buildings, situated within the limits of military cantonments and occupied by European and native officers, or by the soldiers and sepoys of Her Majesty's and the Company's army.'

Section XI defined the liability of the Justices in respect of Police charges as follows:—

'And it is hereby enacted that from and out of the Municipal Fund an annual sum of forty-five thousand rupees shall in the first instance be deducted and paid by equal monthly instalments, and carried to the credit of the Governor-in-Council of Bombay in the General Treasury, to be applied by the Governor-in-Council for and on account of the expenses of the general Police throughout the islands of Bombay and Colaba; and in the event of such expenses being at any time hereafter increased by a necessary augmentation of the Police force or through any other good cause, a further sum of money, bearing the same proportion to such increased expenses of the Police as the sum of forty-five thousand rupees bears to the present expenses of the Police aforesaid, shall be in like manner deducted and appropriated out of the said Fund.'

The expenses grew from year to year and formed a constant source of controversy between the municipal authorities and Government until the year 1907 when a readjustment of the burden of civic liabilities between Government and the Municipality was arrived at and embodied in the Police Charges Act.

The only other provisions of the Act of 1845 which deserve special notice were those conferring powers on the Board of Conservancy to make appointments of officers. The Municipal Act now makes it obligatory on the Corporation to make several statutory appointments. The Board of Conservancy was under no such obligation. The Act merely made it lawful for it to nominate and appoint 'one or more Superintendents of Repairs, Clerk to the Markets, Overseers and Scavengers and any other officer that might be found necessary for carrying out the purposes of the Act.' These powers were subject to the sanction of the Justices in Sessions assembled, or of such other persons as might be vested with the control of the Municipal

Fund, and subject further to the approval of the Governor in Council.

The Board began its operations with an income of 2·88 lakhs. The expenditure was 2·79 lakhs, the principal items being Police, markets, road repairs and scavenging. The diverse functions of the engineering departments were performed by an official known as the Superintendent of Repairs, who was appointed by the Bench of Justices subject to the approval of Government. This officer continued in his appointment only on condition of being allowed to discharge gratuitously the duties of Surveyor to the Court of Petty Sessions. As the Surveyor's appointment was in the gift of Government, the charges in respect of his establishment under that head were defrayed from the Government treasury and not from the Municipal Fund. The dual control to which the officer was thus subjected was, however, likely to give rise to inconvenience and friction. This difficulty was foreseen by the authorities and with a view to obviating trouble one and the same individual was selected to be the Chairman of the Court of Petty Sessions and of the Board of Conservancy.

The average annual expenditure of the Board of Conservancy from 1845–46 to 1852–53 was 2·37 lakhs per annum. The Municipal Fund, however, proved unequal to the numerous calls upon it. On one occasion the Board found itself on the verge of insolvency, but a timely loan of Rs. 1,00,000 from a few Indian citizens enabled it to tide over the difficulties. The relief was, however, temporary. Financial stringency hampered the work of sanitation. There were loud complaints of inefficiency and a powerful agitation was set on foot for putting the municipal administration on a more satisfactory basis.

CHAPTER XV

A TRIUMVIRATE OF MUNICIPAL SATRAPS

THE Board of Conservancy was the first to ask for an amendment of the Act of 1845. One of the oldest files available in the Municipal Secretariat contains a letter addressed by G. Hancock, Clerk of the Peace, to the Secretary to Government, dated 3rd August 1847, suggesting amendments in the Act so as to facilitate the assessment and collection of the shop and stall tax and to provide for the realization of additional income from that source. A draft amended Act was accordingly forwarded by Government in the year 1850 to the Bench of Justices for consideration and suggestions.

There were European stalwarts in those days to fight the Government on behalf of the inarticulate populace. The minute made by W. Graham, when the draft Act was circulated to members, is an instance in point. 'I consider this Act as it at present stands,' he observed, 'an infamous attempt to interfere with the civil rights of the inhabitants of Bombay, quite as objectionable in principle as the lately much-talked-of Black Act, and that it should be met by the most decided and vigorous opposition.' The reasons for inditing this scathing minute are not mentioned, but it seems, from a scrutiny of the draft Act and the correspondence that ensued, that the opposition to the proposed enactment centred round two most obnoxious provisions. One of these contemplated the levy of a tax, in lieu of the shop and stall tax, on all trades and occupations where the business of buying and selling for profit was carried on, by a percentage on the gross annual value thereof, and the other for excluding the jurisdiction of the Supreme

Court and making the Revenue Judge the sole arbiter in all matters of dispute concerning the levy and collection of this tax.

The draft Act was referred by the Bench of Justices to a Sub-Committee consisting of Messrs. Warden, Spens, Dickenson, Cormack and Bomonji Hormusji.[1] The Committee's report is a document of absorbing interest. In the opinion of the Committee the proposed income tax on trades was objectionable. The shop and stall tax was unequal in its incidence and unfair, but it had already been legalized and yielded to the Bench of Justices an annual income of about Rs. 70,000 paid by 8,664 persons. The Committee was, therefore, opposed to its abolition. The Municipal revenue was then derived from four sources: assessment of land and houses, tax on carriages and horses, shop and stall tax and liquor license fees. Excepting owners of landed property and horses and carriages the wealthy inhabitants of the city were exempt from taxation.

'We think,' observed the signatories to the report of the Committee, 'that without prying too inquisitorially into the incomes of the inhabitants rates may be levied upon them which may be fairer in their operation than those existing. The facility of taxing landed property has probably aided in establishing a system throwing a very large proportion of the municipal taxation on land-owners while persons possessed of personal property to a large amount, and who require the protection of the Police more than the land-owners, and residents of wealth who are just as much interested in the cleanliness of the island, are almost exempted from taxation and it seems especially unjust that the small traders should pay a personal tax and the large traders none. We are disposed to think that the principle of the shop

[1] History is silent concerning the achievements of these prominent Justices of the time, except the last named whose memory has been perpetuated by the Bomonji Wadia fountain and clock-tower at Bazar Gate Street. Warden is probably identical with the J. Warden who was Senior Magistrate from 1835 to 1840; Spens held the same post in 1850–51. J. Warden was Member of Council for a year (1853–54) and retired from India in September 1854.

and stall tax should be extended to all classes of residents excepting in every case the poorer classes, and as the tax to be levied is not a large one in return for the advantage of having good roads, cleanliness and an efficient Police, we think that a personal tax might be levied on all residents having some reference to their wealth and station but not exactly proportionate thereto, nor would we in this make any distinction as to the source from which their income is derived, not even exempting land-owners on the ground that they are already taxed in respect of their land and houses nor professional incomes. We think that by dividing the community into somewhat widely distinct classes a tax might be levied bearing hardly on none.'

As regards the question of making the Revenue Judge the sole court of appeal, the Committee recommended that there should be a tribunal to decide all cases of assessment with power to submit a case to the Supreme Court for decision. It pointed out that the Revenue Judge scarcely existed more than in name. The Senior Magistrate of Police was the Revenue Judge. The Committee considered it inexpedient to exclude the jurisdiction of the Supreme Court so completely as was proposed. It recognized that officers acting in the collection should be protected, but it suggested that beyond the usual protection the Supreme Court and the Court of Small Causes, respectively, should retain their jurisdiction.

The Bench of Justices addressed Government in terms of the Committee's report. This representation, dated 19th August 1852, appears to have given the deathblow to the draft Act of 1850. The Justices were, however, anxious to have the law of local taxation amended without delay. The most enthusiastic of them, Henry Conybeare, therefore, brought forward a proposal before the Bench of Justices for substituting an Occupation Tax for the pre-existing shop and stall tax. This suggestion was adopted by Her Majesty's Justices and

in his zeal to hustle Government Conybeare compiled and placed before the Bench a rough draft of an Act giving effect to the proposal. In a letter to the Bench he made it clear that his intention merely was 'to convey, without loss of time, to the Advocate-General, an idea of the various matters it was thought desirable to provide for by means of the proposed Act, and not by any means to lay down the exact technical phraseology.' The learned counsel was, however, not in a mood to tolerate such an impudent encroachment on his functions. When the draft was submitted by the Bench to the Right Honourable the Governor in Council, it was referred to the Advocate-General in the first instance. He pointed out that the proposed Act was drawn up in an 'untechnical' manner, 'evidently not by a professional man,' and was obscure in many of its provisions. The draft was, therefore, returned to the Bench of Justices with the gentle advice that the Bench should in future have such drafts settled by their legal adviser before they were transmitted to Government.

With the same communication in which this advice was given, another amended draft Act was sent to the Bench for the Justices' opinion. Again a Committee of the Bench[1] was appointed to consider the draft and a report was made, but nothing came out of it. Meanwhile, the sanitary condition of the city was going from bad to worse. Radical reforms in the system of conservancy and fresh sources of revenue for financing the measures were necessary.

Henry Conybeare's enthusiasm and earnestness for reform were once more conspicuous. He issued on 18th August 1852, an exhaustive report on the sanitary state

[1]The Committee consisted of Erskine, Conybeare, Jenkins, Lowndes, Narayan, Dinanathji, Bomanji Hormusji and Cursetji Jamsetjee.

and sanitary requirements of Bombay. He compared the methods of the removal and disposal of nightsoil adopted in London, Paris and Bombay, and made suggestions for obviating the nuisance arising from the defective state of the arrangements made for the purpose by the Board of Conservancy.

At that date Back Bay was, so to say, a mere nightsoil depot, as the sweepers emptied their baskets on the sea-shore instead of sinking the contents in deep water. The first receiving station was at Khara Tank in the centre of the New Town district. Plans and estimates for the construction of a cesspool by the side of the town drain and for three nightsoil carts were submitted by Captain Crawford, Acting Superintendent of Repairs, on the 17th October 1846. After the introduction of the night-carts efforts were made to induce the sweepers to remove the filth by night. They were, however, impervious to all persuasion and refused to work at night. Even in those early days strikes were not unknown. In September 1846, the Superintendent of Police determined to put a stop to the practice of sweepers carrying baskets of nightsoil on their heads during the day. The consequence was a general strike of Halalkhores. Nothing, therefore, could be done in the matter except to forbid that nightsoil carts be taken through the public thoroughfares during the day-time from 9 a.m. to 11 a.m. and from 4 p.m. to 8 p.m.

Five different modes of disposal of nightsoil were proposed from time to time :—

1. Throwing it out into deep water.
2. Conveying it to sea by sewers.
3. Shipping it on board boats and then conveying it out to sea.
4. Burning it.
5. Conveying it out of Bombay by rail.

Of these proposals only two, the first and the last, appeared to Conybeare to be practicable and he considered that the first was the more economical. His recommendation, therefore, was that the nightsoil should be sent out to sea at Chinch Bunder.

Another Bill was brought on to the legislative anvil in the year 1855, styled a Bill for the Conservancy and Improvement of the Towns of Calcutta, Madras and Bombay, and the several stations of the settlement of Prince of Wales Island, Singapore and Malacca. The Bill contemplated the appointment of Commissioners for the administration of municipal funds. It did not, however, divest the Bench of Justices and the Government of Bombay of the powers conferred on them by Act XI of 1845, so far as the control of the Municipal Fund and the appointment of the members of the Board of Conservancy were concerned. It was a very comprehensive measure dealing with all the branches of local government. The Committee of the Bench of Justices to whom the Bill was referred for consideration made its report on 18th January 1856. As regards the contemplated change in the administrative machinery, the following observations of the Committee may be noted:—

'Since then it would seem that by the Act now under consideration as long as the Municipal Funds are administered under the provisions of Act XI of 1845, the functions of the Municipal Commissioners would have to be discharged by the Board of Conservancy, and as under Act XI of 1845 the Board of Conservancy are controlled in the expenditure of the Municipal Funds by Her Majesty's Justices as well as by Government, the Committee think it advisable that the existing power of supervision and control vested in the Bench of Justices should be continued. The Committee, would, therefore, recommend that a clause be added to the new Act to the effect that nothing in this Act shall deprive the Governor in Council of Bombay or Her Majesty's Justices of the Town and Island of Bombay of those powers of controlling the expenditure of the Municipal Fund and of

appointing the members of the Board of Conservancy who are henceforth to be designated as Municipal Commissioners.'

A representation was accordingly sent to Government, but the hopes expressed therein were foredoomed to failure. Government were determined to snuff out of existence the civic heptarchy set up in 1845. By Act XXV of 1858 the Board of Conservancy was supplanted by a triumvirate of Commissioners. One of these Commissioners was to be appointed by the Governor in Council and the other two by the Justices in Sessions assembled. The Commissioners who held no other appointment were to receive Rs. 10,000 per annum and those who held any other appointment, or were engaged in any other occupation, were to receive Rs. 4,000 per annum.

The Act provided for 'raising a fund for municipal purposes, which fund, with a few exceptions, was placed entirely under the direction and management of the Commissioners who were not subject to any check or control on the part of the Justices, except in respect of any work for the execution of which the consent or sanction of the local government was necessary under any previous enactments. Appointments of officers drawing salaries exceeding Rs. 200 per mensem, when newly proposed, were to be submitted to the Justices for approval before the sanction of Government was applied for; but when the proposals made by the Commissioners were disapproved by the Justices, the Commissioners might, if they thought fit, refer the matter for the decision of the Governor in Council.

It was a novel experiment in the domain of local government. The three Commissioners with equal powers, but divided responsibility, almost unavoidably obstructed and counteracted one another. The public, therefore, complained that the new enactment had

merely substituted King Log for King Stork. So far as the citizens were concerned, the new system was, in fact, only a prolongation of the régime of the Board of Conservancy. The defects which Government sought to remedy by the abolition of the Board still continued and the only difference between the two systems was that the new one drained the municipal exchequer annually to the extent of Rs. 24,000 more than the old one.

We must not, however, overlook the fact that the failure of the new régime was due not to want of will, energy or capacity on the part of those who held the office of Commissioner, but to the system. They had to work not only under a faulty system, but also without adequate means. Bombay was then in a notoriously insanitary condition. Though clad in gold and washed by the silver sea, the beautiful island city was in those days 'one foul cesspool, and sewers discharging on the sand.' To ride home to Malabar Hill along the sands of Back Bay was to encounter 'sights and odours too horrible to describe.' Squalid filth within doors and without, deficient arrangements for conservancy, imperfect drainage, lofty houses situated in narrow and crooked lanes without any means of ventilation, all those dreadful features brought the administration of the municipal satraps into disrepute.

Not until 1863, however, was any decisive step taken to improve the executive machinery or to take remedial measures for the unhealthiness of the town.[1] That year witnessed an unprecedented influx of the labouring classes owing to the increased commercial activities of

[1] Two enactments passed during the interval, however, may be noted—Act IV of 1862 for the better regulation of markets in the city requiring that no new market or fair should be established in a district without the permission of the magistrate of the district and Act VIII of 1862, an Act to abate the nuisance arising from the smoke of furnaces in the town and suburbs of Bombay, requiring that furnaces should consume their own smoke.

the period. Swarms of labourers of all castes poured into the city in the hope of earning a livelihood. The mortality for the year was the largest that had been recorded in Bombay. The deaths from cholera were 5 per cent in excess of the average and the toll taken by small-pox and measles was nearly twice the average. Towards the end of the year, therefore, Government appointed a Special Commissioner to report on the sanitary condition of Bombay. The report submitted by the Special Commissioner, Dr. Leith, on 29th February 1864, threw a lurid light on the condition of the city. It laid open in most startling terms the imperfect measures taken to cleanse the town, the abominable state of surface drainage, the absence of any other system, the horrible condition of the public latrines and the necessity for the provision of additional ones, the prevalence all over the town of foul matter festering in the immediate vicinity of human habitations and the presence of unwholesome trades in the very centres of the crowded portions of the town. In short 'filth' was the word writ large on this report. The condition of the town was as bad as could be imagined and the density of population and the insufficient and impure supply of water aggravated the horrors of insanitation. How very overcrowded the city was in those days may be inferred from the fact that during his inspection of the town at the time of the Census Dr. Leith observed that in a lane 9 feet wide the houses on each side were of two or three floors all the rooms of which were densely peopled and the floors of the verandahs fully occupied, 'while to eke out the accommodation in some of the verandahs there were *charpoys* or cots slung up and screened with old matting to form a second tier of sleeping places for labourers that were employed in the day time at the railway terminus or elsewhere.'

On 2nd May 1864, Government issued a resolution on Dr. Leith's report in which it outlined a scheme for reform in the municipal administration of the city and invited the opinion of the Bench of Justices in the matter. The proposal did not come upon the Justices as a surprise. In fact they had been themselves discussing the question of reform since February 1864 when a committee of seven members was appointed 'to enquire into the organization of the Municipal Commission and its relation to the Bench of Justices.' On 1st April of the same year they had unanimously adopted a resolution to the effect that in the opinion of the Bench 'the present municipal system' was inefficient, and had demanded 'speedy reform.' When, therefore, the scheme for improving the constitution came before them, they were prepared for a reply. It was proposed by the Hon'ble Mr. Cassels and seconded by Sir Jamsetjee Jejeebhoy, that the entire management of municipal affairs should be entrusted to one Commissioner. To this an amendment was proposed by J. P. Green, seconded by W. Cooper, affirming the original proposition but adding that the sole Commissioner should devote his whole time and attention to the duties of his office. This amendment was carried and Government were informed accordingly. Cassels was the most towering personality of the day. A partner of a leading European merchant firm and a pillar of the Bombay Chamber of Commerce, he was an ardent supporter of the Justices in their efforts for the improvement of the city and the advancement of local self-government.[1] As he then happened to be a member of the Legislative Council of Bombay, the work of drafting a new Bill for remodelling the municipal constitution was entrusted to him. The

[1] Wacha, *Municipal Government of Bombay.*

Bill was introduced in the Council of the Governor of Bombay on 20th August and passed after careful consideration in the Council.

The statement of Objects and Reasons emphasized the fact that the system of municipal administration then in force was found defective and condemned by all concerned. The Bench of Justices had appointed a Committee to inquire into its organization and its relation to the Bench. This Committee's report as well as the Resolution of the Worshipful Bench concerning it had urgently called the attention of Government to the necessity for immediate reform. Not only had the system been condemned by the Bench of Justices, by the press and generally by the community, but also the Municipal Commissioners themselves, from their own experience, had pronounced the constitution of the body to be radically defective. The able report of Dr. Leith, the powerful representations of other eminent medical men and the doleful mortality returns had established the necessity for some effectual measure to improve the sanitary state of the town.

In introducing the Bill into the Council Cassels urged that it was felt that the Bench did not exercise that control over the Municipal Fund to which they were fairly entitled, and appealed for a position of greater dignity and usefulness for the Bench. The report on the working of the system by the Commissioners themselves had revealed a state of mismanagement and lack of responsibility discreditable to the officers and the Justices alike. The member in charge of the Bill thought he could do nothing better than quote the Commissioners themselves on this subject and the following extract from his speech shows succinctly and strikingly what gross irregularities had been allowed to be perpetrated for a number of years.

'I really think, Sir, that a more ingenious solution of the problem "How not to do it" could scarcely have been given than by the invention of such a municipality. The conservancy of this large and populous city has been entrusted to three Commissioners with equal powers, whose salaries are scarcely sufficient to pay the house rent of to-day. Two of these Commissioners are at the same time allowed to hold other appointments and have only that amount of time to bestow on municipal affairs which is requisite to enable them thoroughly to paralyse the full-time Commissioner and each other. The state of muddle and inextricable confusion into which this ridiculous system has thrown municipal affairs may be gathered from a few extracts from a letter addressed by the present Commissioners on the 9th December last to the Bench of Justices, in which, with the most naïve candour they describe the state of their department. "It is of course to be desired that a full and correct balance sheet should be laid before the Worshipful Bench, but this the Commissioners regret to say, it has been found impossible to draw up; the accounts of almost every department of the municipality are in such a state as to render it impracticable to give it with any degree of certainty and precision. In the Surveyor's department there are considerable unadjusted advances, dating as far back as December 1, 1863; among these are many large sums which were advanced, not only to the gentleman who has recently vacated the appointment, but also to his predecessor. Many Bills are still coming in for work performed and material purchased, for which there is no authority on record, and for which we are obliged to accept the word of the people presenting them, supported by that of subordinates, some of whom are not now in the department nor in any way under authority. Contracts to the amount of several lakhs of rupees have been found to have been made and though large advances have been made upon them there is not the scratch of a pen whereby to render the contractors liable at law for the time in which the work should be performed, or the rates to be paid for the work or for insuring good workmanship and materials. The Commissioners have been almost entirely at the mercy of the contractors and still may be so, as it has been found impossible hitherto to adjust their account" . . . "In the Vehar Water Works Department matters do not appear in a much more intelligible light" . . . "In the general account of all the establishments, they have found

items calculated to mislead anyone making only a casual inspection of them, for instance, in the balance sheet for the year ended December 31, 1863, there is the sum of Rs. 3,10,530 on account of payment to Drainage Works Fund, whereas in reality it only represents the sum which *should have been paid*, not one rupee of it having been so disposed of, and the greater portion of it remaining to this hour to be paid.". . . " From the above account it will not be surprising if a very large balance appears against the fund in the accompanying sheet." No sketch of mine could so graphically pourtray the gross features of the system as this letter in which the Commissioners are painted by themselves. I must confess, Sir, that after such a history of municipal management, however confused may be municipal accounts, however bankrupt the municipal fund, and however bad the conservancy of the town, I think we have good reason to congratulate the community that things are no worse. The Commissioners themselves say "These remarks have not been made to cast blame upon any particular individuals, for it would be difficult to know exactly where to attach it ; they however, show a total absence of responsibility, which has prevailed probably for years past, and are brought forward simply to show from the general management of municipal affairs and the system of accounts, how hopeless it is for them to attempt to make a correct and satisfactory balance sheet." I ask you, Sir, whether the first great step towards improving conservancy in Bombay is not to begin by sweeping such a system as this from the face of the earth.'

Before dealing with the improved system prescribed in the new enactment, we may extend a hearing to the triumvirate itself. In an interesting report on the Municipality of Bombay published in the year 1865 by Surgeon Major Pelly, President of the Municipal Commissioners, much interesting light is thrown on the conditions in which the triumvirate had to work.

'In common justice,' observes Major Pelly, 'both to the present and past Commissioners, it is but fair to point out that the causes of failure in carrying out the provisions of the various Acts and Regulations intended for their guidance and support in the prosecution of their duties has not been simply that mutual

obstructiveness which succeeded co-operation, nor is it entirely attributable to any or all of the causes alluded to above. There were and are others at least as potent, over which the Municipal authorities have no control, such as want of sewage drainage; rapid increase of population, with an inadequate supply of house accommodation; the chief instruments for carrying out the details of the Acts, viz., the Police being in a separate department, and not in any way under their orders; and lastly, the very deficient supply of magisterial authority to take cognizance of breaches of Municipal laws. As long as these opposing influences are allowed to remain, no system which man can devise is likely to meet with success. The new Drainage Works, now in course of construction, will undoubtedly in the space of a few years render material assistance, and the various reclamations, and consequent extension of buildings, will, ere long, probably allow of the population being less restricted to the limited localities within which it is now confined. The Police or at any rate such portion of the force as is required for purely municipal superintendence are now rightly about to be placed under the orders of the Chief Municipal authority; but either the Municipal Commissioner should have magisterial power, or more magistrates, whose chief, if not sole, duty should be to correct Municipal offenders, should at once be appointed. When all the measures are carried out, it may reasonably be expected that the general appearance and healthiness of the town will be improved. But though much may be done with the aid of a municipal police and by an increased number of magistrates, nothing approaching to *perfection* can be hoped for until the drainage is complete and sufficient house accommodation is provided. As regards the drainage, no comment is required. As regards overcrowding, a good idea may be gathered from the Census Report made by Dr. Leith in 1864 . . . More might easily be said in defence of the Board of Conservancy and Commissioners, but enough has, I hope, been adduced to show that with all their faults, those who have endeavoured to do their duty (and there have been many) under all the disadvantages of the present and past systems, are not quite so black as they have been so often depicted in the public prints.'

One great disadvantage against which the régime of the triumvirate had to contend was the constant changes in its personnel.

'We should not like to say,' observed the *Bombay Builder* of July 1865, 'how many individuals consisting of private tutors, Lieutenants in the Navy, disappointed Quarter Masters, Assistant Dock Masters, etc, have held office as Commissioners during the last ten years. How such men, doubtless most able in their own departments, can be expected to understand and superintend the conservancy of a city such as Bombay, is to us a mystery. Therefore, we say that we heartily welcome anything which is likely to prove a change for the better, although at the same time it is by no means certain that the new Act will be found complete in every point.'

CHAPTER XVI

THE MAGNA CHARTA OF MUNICIPAL GOVERNMENT

THE Municipal Act of 1865 forms a very important landmark in the history of local government in Bombay. Although the machinery of the urban administration has since undergone a good many changes, the framework laid down by that Act for civic government has remained unaltered. It is, therefore, desirable that we examine in detail the principal provisions of this enactment.

Under the old régime the Justices of the Peace had a partial and nominal voice in the administration of local affairs. By the Act of 1865, which has been called the *Magna Charta* of local government in Bombay, the Justices were created a body corporate with powers to impose rates and taxes and with sole and undivided control of the Municipal Fund. A duly constituted corporation was thus formed for the first time to supersede the discredited dual government composed of the Bench of Justices and the Board of Commissioners. As yet there was no demand for popular government. Franchise rights were undreamt of. There was no local Hampden to raise the battle-cry 'no taxation without representation.' The Justices of the day were, no doubt, the most enlightened citizens of Bombay and they represented the wants and wishes of the people. A popular electorate could not have returned better representatives to the civic chamber. Nevertheless, they were the nominees of Government on the Corporation, not the chosen, accredited representatives of the people.

The Corporation then consisted of 190 Justices whose number within the next five years was increased to about 400. In spite of this formidable number only seven were to form the quorum for the ordinary meetings which the Corporation were enjoined to hold once a quarter. This ultra-cautious provision seems quite inexplicable when we take into consideration the zeal evinced by the Justices and the active interest taken by them in the transaction of civic business during the preceding years. In fact a very large number used to attend the meetings and the records of subsequent proceedings show that all classes of Justices, Christian, Hindu, Parsi, Muhammadan, worked hand in hand with exemplary keenness and self-sacrifice for the promotion of the welfare of the city.

The Act completely transformed the executive machinery of the municipality. Under previous enactments the Board of Conservancy and the Board of Commissioners were virtually the executive committees of the Bench of Justices. That experiment, as we have seen, had failed. The new Act, therefore, concentrated all executive power and responsibility for the administration of the municipality in a single, full-time officer appointed by the Governor in Council. This officer was designated the Municipal Commissioner for the City of Bombay. He was to be appointed for a renewable term of three years, subject to removal for misconduct or neglect, or incapacity to perform his duties, or at the recommendation of not less than two-thirds of the Justices assembled at a special general meeting. Since the year 1865 there has been no change in this principle of entrusting the entire administration of municipal affairs to a single responsible officer, nor has there been any material alteration in the provisions regulating the nomination of the Municipal Commissioner and his

removal from office. Government still exercise the right of appointing the chief executive officer of the Corporation. Only recently, with the so-called democratization of the Corporation has there arisen a demand for vesting in the Corporation the power to appoint the Municipal Commissioner. The demand seems rather belated and would, no doubt, have been made earlier had not Government exercised a very wise discrimination in selecting officers for the post. They have given to the Corporation the flower of the Indian Civil Service from time to time and the members of the Corporation have never been niggardly in the recognition of the good work done by those able officers. There is also another reason why the Corporation were content with the existing arrangements for so long a time. The Municipal Commissioner is one of the three co-ordinating municipal authorities. He is not merely a chief officer of the Corporation. While in certain matters he is required to obtain the sanction of the Corporation and the Standing Committee, he is charged individually with carrying out the provisions of the Act. His appointment by the Corporation would leave him very little independence as a co-ordinating authority under the existing constitution. Whether such an arrangement is compatible with the principles of self-government is a different question and will be discussed in a subsequent chapter.

The Commissioner was to receive such allowances out of the Municipal Fund as might from time to time be fixed by the Justices, provided, however, that the allowances were not less than Rs. 3,000 per month. It is curious that in spite of the general increase in the salaries of public appointments since the year 1865, the minimum salary then fixed for the Municipal Commissioner remained for half a century the maximum salary of the post. Only recently a proposal was submitted to

Government to raise it, after five years of approved service, to Rs. 4,000 per mensem. The maximum salary has, however, been limited to Rs. 3,500.

The other principal functionaries whose appointment Government reserved in their own hands were (1) the Controller of Municipal Accounts, (2) the Executive Engineer and (3) the Consulting Officer of Health. The Act provided for the appointment of a Controller of Municipal Accounts for a renewable term of three years to supervise the receipts and disbursements of the Municipal Fund and to have charge of all Municipal Accounts. He was to be independent of the Commissioner, his countersignature was necessary upon all cheques drawn against the Municipal Funds, and he had the power to correspond direct with the Bench of Justices and with the Governor in Council. This arrangement, ideal in theory, was, however, found to be unworkable and even unprofitable in practice. Even though the legislature had thus provided an agency for controlling the Commissioner's powers to spend municipal money, it was quite possible that a flexible controller might fail ignominiously to act as a brake on the extravagance of the Commissioner or his defiance of constitutional limitations. This is, in fact, what happened. After the first controller appointed under the Act, Colonel Thacker, had resigned his post owing to constant friction with the Commissioner, Arthur Crawford, his successor was absolutely unable to stem the extravagance of that brilliant but prodigal administrator. The result was the collapse of the Crawford régime and the reduction of the Controller's office to that of an accountant subordinate to the Commissioner. The functions of control and audit were transferred to the Finance Committee of the Corporation, called the Town Council, assisted by the Municipal Secretary and the Municipal Auditors.

These changes will be dealt with when we review the reform movement of 1872.

The Executive Engineer was also to be appointed for a renewable term of three years. His minimum salary was fixed at Rs. 2,000 per mensem, whereas the minimum monthly salary prescribed for the Consulting Officer of Health, who was also to be appointed for a renewable term of three years, was only Rs. 500. The reason for this disparity was that unlike the Engineer, the Health Officer was not required to devote his whole time to the duties of his office. His duty was to 'afford such advice to the Commissioner for the sanitary improvement of the City of Bombay as his experience and observation may indicate,' and he was not precluded from holding any other appointment or office which might not interfere with the performance of this duty. It appears very strange indeed that despite the fact that the city was then notorious for its insanitation and abominations, despite the magnitude of the work that lay before the Corporation for the sanitary regeneration of the city, it was not considered essential to appoint a whole-time officer.

The Bill as originally drafted made no distinction between the appointments of the Consulting Engineer and the Health Officer. Both were to be appointed by Government for a renewable term of five years and both were required to devote the whole of their time and attention to the duties of their respective offices. The Select Committee, however, modified the clause pertaining to the appointment of the Officer of Health on the lines of the English Health Act so as to render it permissive and occasional, not obligatory and permanent.

A very animated debate took place on this question. The member in charge of the Bill himself was strongly

opposed to the arrangement proposed by the Select Committee.

'I consider,' said Cassels in moving the second reading of the Bill, 'that it is absolutely necessary at present that a medical man should be attached to the Municipality. The medical officer, like the engineer, would really be merely a Deputy Commissioner and if it be conceded, as I suppose it must, that it is desirable to provide assistants for the Commissioner, who have special knowledge, it cannot be denied that a practical knowledge of sanitary science must be invaluable in aiding the Commissioner to clear out this Augean stable of Bombay. I consider that the system of half-time service has been fully tried and found wanting, and I must submit that to retain it in this Bill is a contradiction of its leading principle. It is unreasonable in the abstract, and particularly objectionable when applied to so important an appointment as that of the sanitary officer.'

He himself moved an amendment for the appointment of a full-time Officer of Health. The reasons which rendered such an appointment in many cases unnecessary in England did not appear to him to apply to Bombay. In England there was, in general, a complete system of sewerage and drainage in towns, which they had not in Bombay, and all the skill and energy which could be obtained would not be too great to enable them to combat the filthy habits of their crowded city and to prevent disease. A medical man as a half-time officer would have been a mere snare and a delusion. There would have been a certain amount of responsibility taken off the Commissioner without being laid on the shoulders of any other man. The outcome of the debate was that the section regarding the appointment was amended so as to make it obligatory on Government to make the appointment of a Consulting Officer of Health on a renewable term of three years. He was, however, allowed to hold any other appointment which might not interfere with the performance of his duties.

Defective as the legislation was in this respect, the phenomenal energy, zeal and vigilance of the ubiquitous Dr. Hewlett, the first incumbent of the office, made even the part-time office a great success. With consummate tact and ability, combined with admirable assiduity and devotion to duty, unsurpassed in the annals of the Municipality, he set about cleansing and did thoroughly cleanse the Augean stable. One hesitates to imagine what might have happened to the foul and filthy town of those days, had an officer of less ability and activity been placed in charge of the health department at that critical juncture.

The most interesting feature of the new Act was the subordination of the Police executive to the Municipal Ædile. We have referred in the preceding pages to the creation of the office of Lieutenant of Police in the year 1793 and its abolition and the subsequent creation of the office of Deputy of Police. The Deputy of Police had also a very short life. Under the Commission of the Peace issued under Act XXXIII of 1793 the office of Deputy of Police and High Constable was annulled and in its place the office of Superintendent of Police was created. This office remained in force until 1865. In addition to his duties as head of 'the executive police' the Superintendent of Police was a member of the Board of Conservancy from 1845 to 1858. He was, thereafter, one of the triumvirate of Municipal Commissioners established for the conservancy and improvement of the town. In the year 1864 Colonel Bruce Inspector-General of Police with the Government of India, was deputed to Bombay to investigate local conditions and to make recommendations for the reorganization of the Police Force. One of his proposals was that the appointments of Police Commissioner and Municipal Commissioner should be amalgamated. This

proposal was, however, wisely turned down by Government. The senior officer of the police force was made responsible solely for the police administration of the city with the title of Police Commissioner and was, for the purpose of the new Municipal Act and for the maintenance of the peace, placed under the authority of the Municipal Commissioner. The Fire Brigade was still under the Commissioner of Police, but barring these duties and the membership of the Corporation, the head of the police administration ceased to exercise any official powers in regard to the municipal administration of the city.

The Act also provided that the annual expenses of the police of the city should be paid out of the Municipal Fund. To provide for these expenses and for the 'prevention of mischief from fires,' it was enjoined that 'an annual rate of two per centum of their value shall be imposed by the Justices upon the occupiers of all houses, buildings and lands in the city . . . provided that the Justices may increase this rate to three per centum, if it should be found necessary, for the prescribed purposes.'

The following other taxes were legalized :—

An annual rate of five per centum of the value of buildings and lands in the city payable by the owners thereof in quarterly instalments. It was lawful for the Governor in Council, on a resolution passed by the Justices at a special general meeting, to raise the tax to a rate not exceeding ten per centum.

An annual lighting rate upon the occupiers of all houses, buildings and lands in the city not exceeding two per centum of the annual value of buildings and lands in the city.

Such annual or periodical water rates for the supply of water from the Vehar Water Works as may be suffici-

ent for the charges connected with the water works payable by occupiers of houses, wharves and other structures and of all works and places supplied with water.

A license tax on professions, trades and callings varying from Rs. 12 to Rs. 350 per annum according to the nature of the business.

A tax on carriages and animals according to the following scale :—

	Per quarter RS. A. P.
On every four-wheeled carriage on springs ...	6 0 0
On every two-wheeled carriage on springs, except native hackeries	4 0 0
On every native hackery used for riding in, and drawn by bullocks	7 8 0
On every labour-cart and labour hackery ...	3 0 0
On every horse, pony, or mule, of the height of 12 hands or upwards	7 8 0

The other sources of revenue were receipts from markets, liquor license fees, duty on tobacco and snuff, and fines and penalties levied under the Act. The town duties on grain and other commodities were abolished, but we shall see, as we proceed, that they had to be re-imposed under the authority of Act IV of 1869 with a view to reinforcing the crippled exchequer of the Municipality. Since that date these duties have come to stay, notwithstanding the periodical crusades of the Cobdenites. The license tax on trades and occupations, which is still a source of local revenue in Calcutta and Madras, was, however, abolished by Act IV of 186 and has never since been re-imposed.

CHAPTER XVII

A BRILLIANT EPOCH OF CIVIC ACTIVITIES

NO horoscope of the baby Corporation can be traced in the archives of the Municipal Secretariat. It is pleasant to speculate upon what the forecast of an Indian Zadkiel might have been had he been consulted. He would have found the position of the stars most perplexing. Here had sprung up a novel joint-stock concern in which every citizen was a shareholder. It was launched into existence on a day which is known in the history of Bombay as the Black Jully Day, a day which witnessed the collapse of many a flourishing merchant-prince and joint-stock company of repute, as well as the scandalous insolvency of the so-called banking corporations, associations, and company-promoters brought about by the frantic share mania which had seized the rich and the poor, the old and the young, the circumspect as well as the uncircumspect, in those giddy days. The supply of American cotton having been cut off owing to the clash of arms in America and the consequent blockade of the southern ports, between the years 1861 and 1865 Bombay had a windfall of eighty millions sterling over and above her normal receipts from cotton. 'Allowing a liberal margin for errors of valuation at the Custom House,' observes Maclean, 'we may compute the clear addition to the wealth of Bombay at 70 to 75 millions sterling—a tolerably substantial foundation for speculators to build upon.' A gambling saturnalia set in. Financial Associations and Land Reclamation Companies sprang up like mushrooms. Locust-like, swarms of

adventurers from all parts of the country flocked to the city. Every one thought the purse of Fortunatus was within his reach. A graphic description of this wave of speculation which swept over Bombay has been given by Sir Dinsha Wacha in his history of the constitutional struggles of the Corporation from the year 1865 to 1888 and it seems best to reproduce here the picture drawn by that gifted eye-witness :—

'The merchant cotton princes of the day, European and Indian, were, of course, intensely engaged in the pursuit of purchasing the raw fibre at any price and made their two and three hundred per cent profit per candy by exporting it six thousand miles away, where there was such a dearth of it, and where thousands of operatives famished or were thrown out of employ for want of the necessary cotton in their factories. Then, the financiers of the day were engaged in floating companies, with gigantic capital, of all sorts and degrees. The South Sea Bubble of the previous century in England had its counterpart in 1864–5 in Bombay. Apart from colossal reclamation companies, like the Back Bay, the Colaba, the Frere Land and the Mazagon, there were daily uprising in her midst, thanks to the crores poured in by Lancashire during the American War (1861–5), banks and financial institutions and divers other ephemeral concerns for promoting all manner of things. These used to come into existence with the real rapidity of the prophet's gourd. The staid merchant of wealth and credit stood cheek by jowl with the latest *parvenu* whom the frenzied Stock Exchange of the day used to set up as a rival to float or promote some mushroom concern. In the Bombay of 1864–5 every tenth man was either a promoter, embryo promoter or director. And as to the number of bankers and managers, it was legion, each and all absorbed in pocketing the largest premium on share allotments made by hundreds every day. Aye, night was joint labourer with the day in the busy pastime of making gold out of nothing in particular. It is impossible to describe the paper alchemy of designing promoters of bubble companies—men who merrily plucked the feather of the fat geese who flocked in their thousands on the Change to grow fatter, but only to find themselves, at last shorn clean of their

original plumage. Men and women, young and old, Christian or non-Christian, banker and merchant, the greengrocer and the grass-cutter, the penniless and the *lakputti*—all were to be seen sailing in one direction. Their embarkation on this Argonautic expedition of the mid-nineteenth century might indeed require the pen of some picturesque historian with the genius of a Macaulay to portray.'

There could only be one result of such insane speculation. The bubble was bound to burst; and it did burst in 1865 involving the whole of Bombay in dire distress such as the city had never before witnessed. What an inauspicious moment for the birth of the new Corporation! If, however, one proceeds to cast its nativity in the light of subsequent events, as the Zadkiels not infrequently do, one may safely depict the position of the heavenly bodies at that moment as extremely favourable, a *rasi* eminently auspicious for the redemption of the city's health and wealth alike. Despite the surrounding filth and disease, the atmosphere that the baby Corporation breathed was redolent of public spirit and civic patriotism of a very high order. That was, indeed, an era when from the sagacious head of the Government downwards every citizen was animated by high ideals of citizenship. Although the bulk of the population found itself in the vortex of wild speculation, those who had made large fortunes during the period were ready and eager to utilize their wealth towards the promotion of schemes for the permanent advantage of the city. At the head of the Bombay Government was Sir Bartle Frere, a born statesman, endowed with singular prescience and the power to visualize a new Bombay retaining all its natural beauties and provided with all the attractions that modern science and art can devise. As a Bombay civilian he had had unique opportunities of acquiring in various spheres of public service an intimate knowledge

and experience of the Government of the Western Presidency such as no previous Governor of Bombay had ever possessed; and his outlook was widened by the experience which he had gained in Bengal as the trusted friend and councillor of Lord Canning and, after his retirement, of Lord Elgin. Above all, in the words of Hovell-Thurlow, the author of *The Company and the Crown*, he was known to all in India as 'a pattern of vigorous, intelligent refinement.' His courtliness and chivalry and his high sense of duty and citizenship completely captured the imagination and stimulated the public spirit of the people of the Presidency.

Improvement of land formed the most important part of Sir Bartle's programme of public improvements. He realized that the old Fort ramparts and fortifications which had once watched the merchant vessels plying in the harbour and frowned on the Malabar pirates were no longer necessary for the defence of the city, and that their demolition would improve the ventilation of the buildings within the Fort and render a large area of land available for housing the rapidly growing population of the town. In fact, the Fort had become a nuisance and long before Sir Bartle's régime proposals for its demolition had been mooted. As early as 1841 the *Times* correspondent wrote: 'The maintenance of the Fort of Bombay is not only useless, but has become a downright and most serious nuisance to the inhabitants at large. It is the source of a ridiculous waste of money to Government itself: witness the erection, not yet complete, of a gate at the cost of Rs. 30,000 to block up the way to the Church. The Fort is a costly and filthy nuisance.' The advantages of demolition were recognized by the predecessors of Sir Bartle, particularly by Elphinstone, and some old portions of the ramparts had already been cleared away. Owing, however, to the opposition of the

inhabitants and of the supreme Government as well, only the ravelins and outworks could be touched; the Fort continued to be a filthy nuisance and a source of danger to the health of the community. Sir Bartle Frere, however, was determined to remove the nuisance once and for all. Soon after he assumed office, he prevailed upon the Secretary of State to sanction the work of demolition and he had the satisfaction of having it carried out. The areas rendered available for residential purposes were carefully laid out. A portion was reserved for public buildings and the rest of the land was sold by public auction. Great reclamation schemes were also undertaken, new roads were laid out, and old thoroughfares improved.

There was apparently ample need for increasing the housing accommodation and facilities for transit. Malabar Hill, Breach Candy and Mahaluxmi were then monopolized by the European and wealthy Indian population, while the poorer classes herded in the ancient oarts and alleys. Between the years 1858 and 1860 there was an unprecedented activity in building operations in the whole of the district between the sea and Girgaum Back Road, on which a large number of buildings had already sprung up. 'Houses are rising in all directions,' wrote the *Times* correspondent, 'and what was some few years ago merely a cocoanut plantation will, within the next half century, be as thoroughly urban as Mandvi and Khara Talao. Cavel and Sonapur are utterly destitute of cross thoroughfares and illustrate what will be the future condition of the whole district if systematic proceedings are not at once adopted.'

In 1838 the population was estimated at 236,000. By the year 1860 this figure had greatly increased. Certain events which helped to swell the stream of immigration may be briefly noted. At the close of the year 1860 the

GENERAL SIR ARTHUR WELLESLEY (DUKE OF WELLINGTON)

Who improved the means of communication between Bombay and Deccan.

Great Indian Peninsula Company had opened its line as far as the headquarters of the Thana Collectorate. Three years later, the Bhor Ghat incline was opened. The inaugural ceremony took place on 21st April 1863. when, at the request of the Directors of the Company, Sir Bartle Frere declared the monumental works open to traffic. In the interesting speech which he made on that occasion he recalled the early days of the nineteenth century, when the Duke of Wellington, then in command of the Forces in the Dekkan, had foreseen the importance of improved communication between Bombay and the Dekkan, and had caused the old Bhor Ghat to be made practicable for artillery and a good military road to be constructed from the head of the Ghat to Poona. 'You may yet, I believe,' said he, 'find traces of this road the whole distance a little to the south of the line which is now the old Post Road, and be told that the massive stone ramps which mark the nullah-crossing were the work of Wellesley Saheb.' He recalled the ceremony of opening the Ghat performed by Sir John Malcolm on 10th November 1830, and said: 'When I first saw the Ghat some years later, we were very proud in Bombay of our mail cart to Poona, the first and at that time, I believe, the only one running in India, but it was some years later before the road was generally used for wheeled carriages. I remember that we met hardly a single cart between Khandalla and Poona; long droves of pack bullocks had still exclusive possession of the road, and probably more carts now pass up and down the Ghat in a week than were then to be seen on it in a whole year. But the days of mail cart and bullock cart, as well as the Brinjaree pack bullocks, are now drawing to a close.'

The first section of the Bombay, Baroda and Central India Railway was opened in 1860; the Broach and Baroda section in 1861, the Ahmedabad section in 1863,

and finally 'the line which the company had been forced by the Government to commence at a distance from its base of operations,' was completed southwards as far as Bombay in 1864.

What a great impetus to trade must have been given by these railway communications! The cotton producing districts were brought closely in touch with the market, which took the fullest advantage of the opportunities offered. About the same time the outbreak of hostilities in America and the consequent blockade of the South American ports cut off the supply of American staples and greatly enhanced, as we have seen, the normal receipts from cotton. There was a great demand for labour in connection with the multifarious business associations and companies that sprang up, and workmen flocked in large numbers from the mofussil. 'The city,' says Dr. Hewlett, in his report of 1872, 'was crammed with men, women and children, for whom there was not sufficient house-accommodation and the consequent overcrowding of a great part of the people was excessive.' Sanitary improvement was the crying necessity of the hour, but before passing orders in the matter, Sir Bartle considered it necessary to have a census taken in the year 1864. The task was entrusted to Dr. Leith, the then Health Officer. The figure recorded was 8,16,562. The total number of occupied houses in the island was estimated at 25,994, the number of persons to each house ranging from 39 to 83. However, the financial crash brought about by the share mania abruptly cut short the demand for labour, and the labourers engaged in reclamation and other works returned to their villages. The census of 1872, therefore, recorded a population of 6,44,405. Even so it shows what a large increase in numbers had taken place in the normal population of the city between the years 1858 and 1872.

Such an increase in population was sufficient justification for the improvement and reclamation schemes inaugurated during the administration of Sir Bartle Frere. We may here tarry a little to have a glimpse of the achievements of those days.

'Of the wealth which found its way into Bombay subsequent to the year 1860, some six million pounds sterling was utilised in regulating and advancing into the sea below low water mark the whole of the island's foreshore. Handsome works were effected on either side of the Apollo Bunder, extending south-westward almost to Colaba Church, and stretching from the Custom House to Sewri along the Mody Bay, Elphinstone, Mazagon, Tank Bunder and Frere Reclamations, a distance of at least five miles. On the other side of the island was the great Back Bay reclamation, from Colaba to the foot of Malabar Hill, whereon was constructed a good road and bridle path. Considering what the effect of these works has been upon the sanitary condition of the city, and the great convenience and comfort which they have afforded to the masses, the speculation mania of the years 1861–65 appears rightly to have been a blessing in disguise. According to Dr. Hewlett's report of 1872, the area reclaimed measured 4,348,918 square yards, which is equivalent to 898·5 acres; and by the year 1872 the area of the whole island had risen from 18·62 square miles to 22 square miles, 149 acres and 1,897 square yards.'[1]

Among the new roads commenced or completed during the period may be mentioned the Colaba Causeway which was widened and rebuilt in 1861–63; Cruickshank Road and the Esplanade which were widened in 1865 and 1866; the Nowroji Hill Road from Dongri Street constructed in 1865; the Carnac, Masjid and Elphinstone overbridges completed in 1867 at the joint expense of the Municipality and the G.I.P. Railway; Rampart Row East from the Mint to Fort George Gate constructed by Government on the site of the Rampart; part of the Mody Bay reclamation and Bellasis,

[1] Edwardes, *The Rise of Bombay*.

Clare, Falkland, Kamathipura and Foras Roads which were constructed between 1866 and 1868.

A special fund for the construction of public offices and buildings for Bombay was also formed at this time from the proceeds of the sale of the ground rendered available for building by the demolition of the ramparts of the Fort and from grants sanctioned by Government.

'Previously,' wrote Sir Richard Temple in connection with this project, 'these buildings had been found unsuitable for the growing needs of a capital city, being cramped in space, badly situated and imperfectly ventilated; they were erected at a time when civilization was but little advanced in the settlements of the East India Company, and when architectural taste was almost unknown in British India. The opportunity was to be taken of giving Bombay a series of structures worthy of her wealth, her populousness, and her geographical situation. The designs were to be of the highest character architecturally: therefore architects due were obtained from England to frame them elaborately; and thought was given to artistic effect. The operations were planned deliberately and were begun while Frere was still in Bombay. Their completion was arranged by his successors very much on the lines which he had laid down. They comprise the Government Secretariat, the University Library, the Convocation Hall, the High Court, the Telegraph Department, the Post Office, all in one grand line facing the sea. Other buildings in a similar style were built in other parts of the city, such as the Elphinstone College, the Victoria Museum, the Elphinstone High School, the School of Art, the Gokuldas Hospital, the Sailors' Home and others. Few cities in the world can show a finer series of structures; and those who admire the buildings after the lapse of fifteen years from the beginning of the work, may well be reminded that it is to Sir Bartle Frere that Bombay owes the origination and inception of this comprehensive project. It would be a mistake to attribute too much to individual Governors; for when work is demanded by the spirit of the age it will be done in some shape or other, whoever may be in power. But in justice it must be said, that Frere deserves the lion's share in the credit of this undertaking, and that without him the work would never have reached that magnitude which is now

beheld by all English spectators with a feeling of national pride.'

'In addition to the great buildings mentioned by Sir Richard Temple,' remarks Edwardes with his characteristic thoroughness, 'we read of improvements to the Cathedral, new Police Courts in Byculla and the Fort, the expenditure necessary for which was sanctioned by Government in 1866; of new light-houses on Kennery and the Prongs; of Harbour defences, batteries at Oyster Rock, Cross Island and middle ground; of a Wellington Memorial Fountain; and of an European General Hospital; and many other works of utility and adornment.'[1]

'Upwards of a million sterling,' says the *Bombay Builder* of 1866-67, 'has already been expended upon the various works which have been undertaken by this Government in Bombay; and about a million and a quarter is the estimated cost of completing works already in progress. Two millions more will be required for projected works including the military cantonment at Colaba. More has been done for the advancement of important works during the present than during any previous administration. The works of progress that remain are blessings to Bombay; those that have miscarried are landmarks to guide the coming administration; and those that are retarded belong more to the financial policy of the Government of India than to the policy of Sir Bartle Frere.'

Private citizens were not slow to follow the lead given by the enlightened Governor in improving and embellishing the city. 'It should never be forgotten,' says Maclean, 'that the splendour of the public buildings and useful and benevolent institutions of new Bombay is due to the magnificence of the speculators of 1861-65.' Premchand Roychand, the uncrowned King of Bombay in those days, gave four lakhs of rupees for a University Library Building and a tower on condition that the tower should be named after his mother, 'The

[1] *The Rise of Bombay*, p. 284.

Rajabai Tower.' The foundation-stone of the building of the Victoria and Albert Museum towards which the Bombay public had subscribed more than a lakh of rupees was laid by Sir Bartle Frere on 19th November 1862. In 1863 David Sassoon presented Rs. 60,000 for the construction of a permanent building for the Sassoon Mechanics' Institute. The first Sir Cowasji Jehangir announced his intention of providing Bombay with no less than forty drinking fountains, to be placed in various parts of the island. The Sir Jamsetjee Jejeebhoy School of Art commenced its beneficent work about this period, and Rustomji Jamsetjee Jejeebhoy erected the Foras Road Dharamshala in 1867, which was placed in charge of the Municipality in 1890. The Sir Cowasji Jehangir Ophthalmic Hospital, adjoining the Jamsetjee Jejeebhoy Hospital, was built in 1866 at a cost of nearly a lakh of rupees. Another Parsi Hospital was opened at Colaba and a Hospital for incurables at Byculla. In 1865 Rustomji Jamsetjee Jejeebhoy offered a donation of Rs. 1,50,000 towards the cost of a second hospital for Indians in the city. Owing, however, to the financial crisis following upon the share mania, Rustomji could not fulfil his promise, and the scheme was held in abeyance until 1869 when Goculdas Tejpal gave Rs. 1,50,000 towards the cost of the building.

Public companies vied with individuals in the work of improving and expanding the city. The G. I. P. and the B. B. & C. I. Railway Companies were, as we have already seen, busy opening new lines. The steamship companies were no less active. The Peninsular and Oriental Company obtained from Government in 1860, for a very low sum, the old Mazagon Dock, with permission to reclaim the foreshore to low water mark, and was at work in 1863 upon its great Dockyard. The Bombay Coast and River Steam Navigation Company

was engaged in formulating a project for running steam-ferries between Bombay and Mandwa, Karanja, Rewas, Dharamtar, Uran and Ulwa. The Bombay Gas Company commenced its work in October 1865.

The Elphinstone Circle is another monument of the public spirit of the times. The erection of the Circle was sanctioned by Sir George Clark and completed during his successor's tenure of office. The site of this imposing collection of buildings—the old Bombay Green —was bought by the Municipality and resold by it at a large profit in building plots to English mercantile firms, 'who gradually transformed the dusty open space, inhabited for the most part by crowds of pigeons, into an imposing example of street architecture.'

A portion of the town was for the first time lighted on 7th October 1866. As the lamp-lighters went from lamp to lamp, they were followed 'by crowds of inquisitive natives who gazed in mute astonishment at the new western wonder that had appeared in their midst.'

The lighting of the town constituted a landmark in the municipal government of the city and the public-spirited citizens of the day came forward to mark their appreciation of the experiment by the presentation to the Municipality of large ornamental lamps for prominent central positions on the public roads. Munguldas Nathoobhoy gave one five-light lamp to be erected opposite the Money School; Ardeshir Hormusji Wadia gave five three-light lamps; Keshowji Naik gave three three-light lamps; Kallianji Shinji gave two three-light lamps; A. D. Sasoon, Nusserwanji Manockji Patel and Goculdas Tejpal each gave one three-light lamp. Gifts such as these, rare in these days, were not uncommon during the period of which we write. Another interesting present given to the local authorities was a steam fire engine, the donor being Rustomji Jamsetjee.

Such was the public spirit of the time; such the decorations and illuminations, such the offerings with which the new-born Corporation was greeted, on its natal day, by the Government and public bodies and by private firms and individual citizens. Thanks to the enlightened outlook and co-operation of all concerned, the foundations of a new Bombay were well and truly laid in those epoch-making days, and the task of the new Corporation in improving, extending and embellishing the city was rendered much lighter than it might otherwise have been.

ARTHUR CRAWFORD

First Municipal Commissioner for the City of Bombay

CHAPTER XVIII

HIS MAJESTY THE COMMISSIONER

ARTHUR CRAWFORD

THE first Municipal Commissioner under the new Act was Arthur Travers Crawford. Endowed as he was with great personality and brilliant administrative genius, his achievements in the domain of civic government were so remarkable that his name soon became a household word in Bombay. Inheriting an empty exchequer, he found himself faced by enormous liabilities contracted by his predecessors in office. With no cash in hand to meet them, with nothing to fall back upon and with an ill-organized and ill-equipped establishment, he was called upon to cleanse the Augean stables of the city. Nothing daunted, however, this masterful official, with his able lieutenant, Dr. Hewlett, entered the arena to combat death and disease. To start him on his labours the Corporation voted an advance of two lakhs of rupees from the available balances of the Drainage Fund.

In his early reports we find no word of complaint concerning these initial difficulties. He was simply content to relate what had been achieved and to point to what remained to be accomplished for the welfare of the City, of the future of which, as the second city in the British dominions, he spoke in most optimistic terms. The days that followed were, however, full of trouble, anxiety and annoyance to the leader and his staff. Within two years of his assuming office were heard the rumblings of the storm that was to break above his head. In his zeal to accelerate schemes for improvement he did not pause to consider the paucity of funds.

Early in his administration there were whispers of alarm at the improvidence and extravagance of the Commissioner. These soon culminated in open opposition and accusation, which obliged him to recall in stirring terms, in his report for the year 1867, the difficult conditions in which he had to commence work, and to vindicate the progressive policy on which he had embarked—a policy which, on a dispassionate survey of the situation at this distant date, seems largely, if not wholly, justified.

'On taking charge,' he observed, 'I found that while I was called upon to carry out radical and extensive reforms in every direction, I had no funds! The cash in my treasury had been borrowed, two days before I took charge, from another fund! The rates and taxes in some cases for years had not been assessed, much less collected. There were three contracts just commenced which absorbed three-fourths of the Municipal revenue! There was an estimated deficit of nearly 20 lakhs for the year! The accounts for the previous year had not even been made up, and those for years under the heading of unadjusted advances to contractors were incomplete. There were no statistics! With the introduction of the Municipal Act on 1st July 1865, the Town Duties Act was rescinded, and thus during the first six months of my administration I was deprived of the chief source of Municipal revenue, for the legislature had not made the License Tax the substitute for Town Duties leviable until January 1866. I had further to face the unpopularity of this License Tax, and to incur the further odium of the Lighting and Police Rates then also for the first time made leviable. At the first Bench Meeting I placed the necessary facts before the Bench, and asking for funds was told to borrow again from the Drainage! I saw at that meeting and several others (at one of which I plainly said the Budget could not be adhered to in the first few years) that I must act boldly and alone. However strongly convinced myself of the necessity for immediate expenditure in certain directions, I could not hope to convince the Bench, for I had no accounts and no statistics to support my bare assertions. In this dilemma I had two courses open to me—the one to swim with the tide, indifferent to the death and disease and the many crying wants around me; the other to act

boldly and for the best, trusting to time, if need be, to prove me right. I adopted the latter—the only course open as I think to any man of ordinary energy and courage—and I do not regret my decision.'

Nor does the city, whatever might have been said by the critics of the day.

It would be beyond the scope of a work on the constitutional history of the Municipality to describe *in extenso* the important works and administrative reforms, which distinguished the régime of Arthur Crawford. His administration, however, constitutes so important a landmark in the annals of the Municipality, its record of work accomplished and the reforms introduced is so unique and contributed so greatly to the birth of the modern city and hence to the introduction of the later constitutional reforms, that it seems meet to review at some length the administration of the first and by far the most masterful Municipal Commissioner of Bombay.

Not one of the principal Municipal problems—sanitation, drainage, water-supply, markets, slaughter-houses, and burial grounds—was neglected. Each was tackled with vigour and foresight. During the first year some of these questions were settled, and the rest were in a fair way towards solution. The most difficult of all problems was the improvement of sanitation. Sanitary science had then made little impression even on the civilized population of the world. To oriental towns it was practically a sealed book and Bombay, despite the maintenance of a sanitary department, was no more enlightened than the rest. Its conception of the scope of an urban health department can be gauged by the strength of the actual establishment, which consisted of a sanitary officer on Rs. 350, two clerks on Rs. 90 and 50 respectively, a peon on Rs. 9-8-0 and two coolies on Rs. 4 each.

Little more than conservancy was attempted, and the work was distributed between the scavenging contractor, the department of the surveyor or Executive Engineer, whose duty it was to supervise the work of the contractor, and the so-called Sanitary Department. There was no executive head of this important branch of the Municipality. The work of the Engineering Department, which was expected to superintend the scavenging of roads, was grossly mismanaged. Contracts were made in an unbusinesslike manner; there was nothing whatever in the shape of a bond to insure efficiency of workmanship or punctuality in the completion of contracts, and the supervision of the municipal staff was careless and inadequate. Never was the need of a full-time Health Officer greater than at that date, when the condition of the streets was revolting to the senses, when in the absence of a proper system of drainage the citizens lived in an atmosphere of fever-breeding miasmata, and when the seeds of cholera had infected the human warrens in the heart of the town. The Act of 1865, however, provided for the appointment of only a half-time health officer, and the incumbent of the office, who commenced his duties in July 1865, could do little more than advise and remonstrate, while the scavenging contractor, secure in his monopoly of municipal contracts, disregarded his requirements.

During the months of August, September, October and November the mortality from fever had attained an unprecedented height and justified the belief that the inadequate service rendered by the contractor was one of the main obstacles to the proper cleansing of the urban area. Being paid a fixed sum for his services, he naturally endeavoured, in the time-honoured manner of contractors, to augment his personal profits by removing as little filth as possible and by confining his operations to

the immediate vicinity of the place of deposit. Consequently areas which most required cleansing, namely, the slums separated from the chief public thoroughfares, were totally neglected. Filth was allowed to accumulate in by-lanes to such an extent that in Pattuckwady, for instance, 'the heaps of rubbish had been consolidated until a height of two feet above the original road was obtained.'[1] The Commissioner had, therefore, ample justification for cancelling the contract and he lost no time in getting rid of the all-powerful defaulting contractor.

It was accepted as the first axiom of the science of sanitation that the duties of the Health Department should be executive as well as inspectorial, and the Department was accordingly charged, from 1st November 1865, with the whole work of cleansing the town. The Public Health Department, as we now know it, was thus the first fruit of the new régime. The Bench of Justices voted a grant of Rs. 6,26,646 for its maintenance, and the following executive establishments were incorporated in it :—

1. The Scavengering Establishment.
2. The Drain-Cleaning Establishment.
3. The Road-Scraping Establishment.
4. The Town-Sweeping Bunder Establishment.
5. The Foreman Carpenter and Store-keeper's Establishment.

[1] By way of illustration we may reproduce the following scraps from the chapter on Bombay Street Notes in Douglas's delightful '*Glimpses of Old Bombay and Western India*' :—

1852, June 18—'the Fort is no cleaner nor more savoury than it was in your time' (say 1832).

1854, 'Hornby Road is one of the filthiest streets in Bombay'—many letters in the papers on the Main Drain Nuisance.

1858, May 15—'The sanitary condition of Bombay is a disgrace to us all.'

1859, May 17—'Ditch fearfully foul.'

1860, February 29—'From Colaba Church to the light house *the stink might be cut with a knife*.'

6. The Market and Slaughter-House Establishment.

7. The Night-Soil and Halalkhores' Establishment.

The secret of successful sanitary work is minute subdivision. The island, was, therefore, portioned off into eleven wards, which were subsequently reduced to ten by combining Parel and Mahim. Each ward was divided into a number of sections, each section into subsections and to each sub-section a Muccadum with carts and coolies was allotted. In charge of each ward was a European inspector, whose business it was to visit each sub-section in the course of his daily rounds and the Health Officer personally went round to see that down to the smallest sub-section there was an adequate and efficient establishment and equipment with supervision to ensure its cleanliness. With such an organization the roads were cleansed more thoroughly than they ever had been and cart loads of garbage and filth, to an extent undreamt of before, were removed from amid the habitations of the people. Several miles of covered drains were opened and cleaned, the number of public latrines and urinals was increased, and all offensive trades were removed from the inhabited parts of the town to distant localities, where they were under constant supervision. Owners of private properties were relentlessly compelled to remedy sanitary defects. Unwholesome food was promptly destroyed, and persons endeavouring to sell food unfit for human consumption were vigorously prosecuted and punished.

The result of these activities was clearly reflected in the general contentment of the populace and in the rate of mortality, which fell from 30·62 per mille in 1864 and 35·04 in 1865 to 25·50 in 1866, 18·95 in 1867 and 19·20 in 1868. These statistics, however, can convey no idea

THE HALALKHORE

A pillar of the Conservancy Department

of the unremitting labour of all concerned and of the great difficulties and obstacles that the new department had to overcome. Two typical incidents may be recalled—the strike of the Halalkhores and the revolt of the butchers.

In caste-ridden India the lowest of the down-trodden castes is that of the Halalkhore. That the heaven-born Brahmin should stand in mortal fear of being defiled by his shadow is intelligible; but that even the Mahar, the hereditary village-scavenger of the Dekkan, should shun him, as he does, as loathsome, and disdain to associate or take food with him, passes comprehension. No human being was regarded as more execrable, and apparently reports of his degradation had reached the ears of Western people at a comparatively early date, for we find Burns, the poet, referring, in a letter of 1786, to the 'hallalcores of the human race.' In his administration report for the year 1866 Dr. Hewlett gives the following pen-and-ink portrait of the Halalkhore:

'Distinct and degraded from birth as the Halalkhore is, he is yet, generally speaking, when young, well-grown and possessing pleasing and symmetrical features. The generality, however, of the full-grown men are addicted to every kind of debauchery. Without the restraining effect of any kind of religion, they indulge in every vice, and become prematurely old and worn out. Their great pleasure appears to be to drink the most ardent spirits they can procure until they fall down in a perfectly lethargic state. Whilst in this state you may roll them over, you may pour buckets of water upon them, without eliciting any greater sign of vitality than a feeble grunt, and nothing will rouse them until they have slept for some hours, when they get up without any headache or other apparent ill effects. Yet they are not altogether bad. It will be within your (the Municipal Commissioner's) recollection that I found a European lad, 17 or 18 years of age, living amongst them, and entirely supported, fed and clothed at their expense. This wretched boy was the son of a

soldier who took his discharge from a regiment in the Punjab, and who came down to Bombay with his wife and this boy in search of employment. The wife died; the father applied for and obtained a passage to England at the expense of Government, leaving this boy to take care of himself as best he might. He sank from bad to worse and at last, as he said, was nearly dying of actual starvation, when these men, the outcasts of society, took pity on their brother-outcast, and supplied him with the necessaries of life, which he could not obtain from his fellow-countrymen.'

In those days, a gang of about 500 Halalkhores resident in Bombay enjoyed a monopoly. The head men amongst them received sums varying from Rs. 100 to Rs. 500 a month for the cleansing of certain streets, which, says Dr. Hewlett, 'was recognized by the rest of the caste as family property, the consequence being that the privies throughout the town were often left untouched for days.' To break this monopoly it was decided to augment the Halalkhore force. By the end of the year 1865, fresh Halalkhores imported from up-country numbered 255, and they were placed at the disposal of the public in certain sections of the town. The local sweepers who believed that they had the divine right to the monopoly of the business protested against the action of the authorities and went on strike. Alarmed at the introduction of these new men, they decided to compel their masters by all possible means to adhere to the old system. The population served by these recusants amounted to upwards of 6,94,000 souls, herded together in thickly-populated localities. 'It is fearful to imagine,' observes the Commissioner in his report, 'what might have been the result, if the strike had continued in an undrained town like this. We felt that at any cost and by the most resolute measures we must save the town from even the risk of such an occurrence in future.' Agents were despatched to Central India, Karachi and the

Dekkan and even as far as the North West Provinces, to enlist new men. The inconvenience suffered by the citizens can be more easily imagined than described, but after the tenth day of the strike the head men were brought to terms, and the Health Officer enrolled the whole number. Drafts from up-country, however, continued to arrive so that within two or three months the staff was more than doubled, and the soil removed was treble the quantity formerly carried away from the town.

The butchers were another turbulent class with whom the Commissioner had to deal. Early in the year 1866 he obtained sanction to the removal of the slaughter-houses to Bandra and to the running thence of a daily meat-train. The whole butcher fraternity, however, strenuously opposed to the last the proposal for mechanical transport. On the 14th September 1865, a butcher was sentenced to two months' imprisonment with hard labour in Her Majesty's country gaol for having brought for slaughter a diseased bullock, unfit for human food. On the 15th October another butcher received the same punishment for exposing for sale the carcase of a diseased goat. Under the previous Act a fine only could have been inflicted for this class of offence. As the butchers maintained a common fund to meet such contingencies, no amount of fines inflicted by the magistracy made any impression on these men. When, however, they discovered that the new Act empowered the magistrate to send an offender to prison for six months, and to inflict a heavy fine also, they were indignant and obtained a writ of *certiorari* praying that the decision of the magistrate, Dossabhoy Framjee, might be quashed on certain technical grounds. Mr. Justice Couch, however, upheld the decision of the magistrate.

The condition of the markets at this date was, in Crawford's opinion, 'certainly disgraceful to Bombay.' Measures were taken to effect improvements and to provide additional temporary markets where they were needed. Towards the end of the year 1865 Government presented the Municipality with a valuable site on the Esplanade in the immediate neighbourhood of the old markets on condition that general markets should be forthwith erected. Plans for a General Market were accordingly prepared and the work of construction was commenced without delay and pushed forward with vigour. These General Markets, named after the Commissioner, are a worthy memorial of the foresight and energy which made Arthur Crawford's administration perhaps the most eventful in the whole history of the Municipality.

The slaughter-houses were removed to Bandra. For the transport of meat a daily meat-train service was arranged—a measure long needed but strenuously opposed to the end by the whole guild of butchers. Every possible precaution was taken to guard against offending the prejudices of the people,[1] but, observed the Commissioner, 'neither in this nor in any other matter, when we have right and reason on our side, will we make the smallest concession to idle clamour. I am and have been from the first prepared for any combination on the part

[1] The prejudices showed themselves at every step and in the most trivial detail. For instance, not only was it necessary that the mutton and beef should be slaughtered under separate roofs and in distinct buildings, but also the blood and drainage from the Beef slaughter-house could not be allowed to pass even in an underground sewer past the Mutton slaughter-house. Again, besides a wall dividing the two yards, it was imperative that it should not be possible to see from the Mutton yard and building into the Beef slaughter-house; and the mutton and beef must go in separate vans, the buffers of which must not even touch each other (a separate train was even demanded) and on arrival in Bombay the mutton and beef must not 'see each other' but must be carried away to market by different routes and a separate gang of coolies must be employed to cleanse each slaughter-house. (Administration Report for the year 1867.)

of those interested in the maintenance of the old nuisances.'

The time for putting this forcible decision to the test soon arrived. Averse to any departure from traditional methods, the butchers set their faces against all reform, and in the hope of intimidating the municipal authorities, they endeavoured to play upon the prejudices and excite the fears of Hindus by disseminating false reports about the arrangements for the conveyance of meat. According to official documents, many ignorant persons actually abstained from meat, believing that it had been defiled. The butchers then engineered a strike, but discovering that the Commissioner had provided himself with butchers and cattle they resumed work. Once more during the year they organized a general strike, but it likewise resulted in their complete discomfiture and humiliation. 'The fact is,' observed the Commissioner, 'these people have been treated with excessive consideration; their profits are enormous; and the trade being in the hands of a few men, they have, or rather had, a mistaken idea of their power. I do not think they will be foolish again, but if they repeat the offence it will be a very easy matter to ruin them entirely, and it shall be done.'

This ultimatum, however, did not bring the butchers to their knees. They hazarded one more strike. On 1st January 1868, without notice they refused to work, as a protest against an increase in the slaughter-house fees sanctioned on the recommendation of a Committee appointed in the preceding year. Only 12 butchers stood by the Municipality. The Commissioner countered their action by securing men from up-country, whereupon the strikers immediately expressed their willingness to resume work. The Commissioner, however, was bent upon teaching them a lesson and on

securing the public against similar occurrences in future. He barred them from the markets for five days and obtained from them a written apology and guarantee for their good behaviour. The following extracts from their petition show how ignominious their defeat was:

'We, the Beef Butchers of Bombay, now humbly beg forgiveness of the Committee at large, and of the Municipal Authorities, for the recent and former strikes. We, hereby, one and all, promise that nothing of the kind shall occur again, and as a material guarantee we hereby deposit with the Municipal Commissioner the sum of Rupees five thousand which we are willing to have forfeited for the benefit of the Municipal Fund, should there ever again be a strike or any attempt to oppose the decision of the Worshipful Bench of Justices or to break through the condition hereinafter agreed to.'

Various improvements in medical relief were suggested by the Health Officer and the Commissioner. At this distant date it is necessary to call attention to only one of those suggestions concerning increased hospital accommodation in the city which after sixty years of progressive administration is still singularly deficient. 'Sixty years ago' makes all the difference in the towns of civilized countries in Europe and America; unfortunately, this is not the case in India. Computing the rate of sickness to the total number of deaths the Health Officer raised the question: 'What accommodation has been made in this city for so large a sick list and are we as well provided in this respect as other commercial and maritime towns in Europe?' From the reports of the Registrar General and of Drs. Bristowe and Holmes, published in the sixth annual Report of the Medical Officer of the Privy Council, he compiled a list of civil hospitals in Great Britain and other places, showing the population of each town, the number of hospitals

and beds, and the ratio of beds to population, and indicated how backward Bombay was in this respect.[1]

Dr. Hewlett also called attention to another social question which was intimately connected with the administration of public health. Examining the prevalence of venereal diseases in the city he remarked that he would not be discharging his duty if he did not ask for a legislative enactment designed to subject all prostitutes in Bombay to strict medical and police supervision. His own experience taught him that this plan had worked in Aden, where there was a Lock Hospital and where, as the result of the measures taken, venereal disease was virtually extinct. He strongly advocated the segregation of such women and the erection of a Lock Hospital in Bombay, but the popular sentiment was so violently opposed to a recognition of vice in any form that nothing could be done in that direction.[2] Since then, on several occasions, the proposal has been revived but its advocates have failed invariably to overcome the deep-rooted prejudices of the people against it.

This brief account of the efforts made by the Health Department for the improvement of the health of the city reflects no little credit on the officers directly responsible for the department. No less creditable was the record of the engineering departments under Crawford's

[1] The return showed that for a population of 816,562 there were only 2 hospitals in Bombay with 370 beds against 16 in London with 3,860 beds for a population of 3,015,494 ; the ratio of beds to population being one to 2,206 in Bombay against one to 781 in London. The ratio for Dublin was one to 322 only, for Paris one to 436, for Glasgow one to 692, the most backward of European cities on the list being Leeds with a ratio of one to 1,623.

[2] A very strong feeling existed also in England at that date against the registration and medical supervision of prostitutes. The Contagious Diseases Act was operative in India up to July 1888 and its abolition was largely due to pressure from England. It proved an entirely difficult Act to work (*Bombay City Police*).

administration. Here too the Commissioner had to fight the contractor for road repairs and watering of roads. The roads had been for years insufficiently repaired, if not altogether neglected, while the traffic had steadily increased. They lacked a sound, dry and firm foundation and there was no surface drainage. The Commissioner realized that to put metal on such roads was equivalent to pouring it into a morass. He had no funds to remake, and sewer and drain them. All that he could do, therefore, was by constant patching to keep the roads just passable. But funds or no funds, he was determined to provide new thoroughfares for facilitating the growing traffic of the city and for opening up undeveloped areas.

We have already noticed in the preceding chapter the main roads and overbridges undertaken and completed during his administration. The work accomplished for the drainage of the city may now be briefly reviewed. For the establishment of the drainage department credit must be given to the discredited triumvirate of municipal commissioners. Before their régime various suggestions had been made for the main drainage of the city. One of the most notable schemes was submitted by Conybeare in 1853. He proposed to run all sewage during the fair season into a sunk pit near Bellasis Road, to deodorize it, and then to apply it to the irrigation of land near the flats. The scheme was tried, but was found to accentuate the existing nuisance. In 1860 Messrs. Wilcox and Tracey submitted plans for the discharge of all sewage at Worli Bunder and Carnac Bunder and for the separate drainage of the Fort area. The Malabar Hill area was not included in the scheme as it was ' not ripe for drainage-operations.' The scheme was approved by a local committee, of which Dr. Leith was Chairman, and by an expert in England, and was sanctioned by

Government in 1863. A drainage department was thereupon organized and work was commenced in 1864. It was, however, abruptly stopped, partly owing to the failure of the contractors, and partly owing to the open expression of popular apprehension as to the advisability of emptying the sullage of the town, in accordance with the scheme, on the west and east of the harbour. This was the position when Crawford found himself at the helm of affairs. He was keen on establishing a perfect system of drainage. A careful survey of the harbour was made under his instructions and a series of tidal experiments were carried out with a view to the selection of an outfall for the sewage. Russel Aitken, the Executive Engineer, submitted his report on 20th June 1866, proposing three sites, and a commission was appointed by Government to examine and report upon it. The commission recommended that all sewage should be discharged into a reservoir opposite the old lighthouse at Colaba, and thence be pumped into the sea at ebb-tide. By the close of 1867 the outlet into the harbour had been provided and several auxiliary drainage works completed. It was not, however, the last word on the subject. In the following year Captain Tulloch pronounced against the outfall at Colaba and suggested Love Grove as an ideal spot for the outfall. It is unnecessary to proceed any further with the chequered story of the sewage-outfall; enough has been said to show how important a share Crawford had in the solution of that all-important question.

To turn now to the question of water-supply, the only source of supply was the Vehar Lake. All possible steps were taken to prevent waste and leakage, and in consequence the Commissioner was able to report in 1866 that 'there was good pressure throughout the year and consequently but few complaints from distant

districts.' He realized, however, that the supply from the Vehar Lake would prove quite inadequate in the near future, and therefore instructed the Executive Engineer, Russel Aitken, to formulate schemes for the extension of the Bombay Water Works. Aitken suggested four schemes, two of which contemplated the construction of the Tulsi and Pawai lakes—schemes which eventually the Municipality had to carry out.

The proudest day in the career of the Municipal Commissioner was the 26th April 1868, when at the instance of their Chairman, Lyttleton Bayley, the Justices passed a resolution of cordial thanks to 'Mr. Crawford and his colleagues for the able manner in which they had respectively contributed to the satisfactory working of the Bombay Municipal Act of 1865, and to whose untiring exertions the marked improvement in the sanitary and other arrangements of the city was mainly to be attributed.' In moving the resolution the Chairman observed: 'It is of the utmost importance that it should go forth to the world that the Bench of the Justices of this City is perfectly satisfied with the manner in which the duties entrusted to the Commissioner have been performed, and that the world should know by our reports that the death-rate amongst the inhabitants has fallen in a very considerable degree . . . and should know further that the discredit cast upon Bombay by the report of the Cholera Commission in Constantinople is proved now to be no longer justified by the facts.' Whilst acknowledging the compliment, the Commissioner, who was naturally moved by this handsome tribute to his work, indulged in an optimistic forecast of the future of the city. 'I see,' said he, 'a few years hence all the railways of Hindustan converging towards Bombay. I see Bombay the centre of the commerce of India, and I see with the help of this Bench opportunities of effecting

a vast deal of good and benefiting this large town to an enormous extent, if we only work together with a will as we have hitherto done.'

Little did he dream that the year which opened with such a vote of thanks and confidence would be fruitful in trouble and recrimination. A general impression prevailed that the municipal establishments were extravagant and that the financial prodigality of the head of the administration was almost certain to land the city in insolvency. A Select Committee of the Bench was, therefore, appointed to scrutinize and report on the establishments of the different departments, and at the end of the year it suggested certain comparatively insignificant reductions and a few changes, such as the separation of the departments of assessment and collection and the partial amalgamation of the Health and Engineering Departments. The Commissioner took the opportunity of vindicating his policy in his administration report.

'Started as the Municipality was in July 1865,' he observed, 'with no ascertained financial position; everything to be done; everything to be learnt; a crisis, sooner or later, was inevitable—and if, by what is called my imprudence, I have hastened that crisis, I am glad of it; for the town has benefited and will benefit more, and its importance will be the sooner recognized. . . . Few know, as we do, how much the poorer classes have been persuaded to do for themselves, to improve their dwellings, and how much money they have really spent on these improvements. While these wholesome feelings exist among the masses, there is no fear that the counsels of those will prevail who would cater for Bombay as for some miserable Konkan fishing village, who cannot or will not, see its wants, note its annual growth, or foresee its future.'

These bold words, however, merely served to fan the flames of hostility to the Commissioner; in and outside the Corporation sensational reports of administrative

extravagance and financial mismanagement were freely circulated. What chiefly provoked the populace was the hardship caused by the distress warrants issued in thousands for the recovery of taxes. Under the new Municipal Act certain taxes had to be recovered from the occupier instead of the owner. The halalkhore, water, police and lighting rates formed what were known as the occupier's taxes. The legislature in this matter had blundered. Instead of 15,000 bills, about 84,000 half-yearly bills had to be made out for house and police rates, and about 56,000 quarterly bills for water-rate and wheel-tax. The work of collecting the dues from a shifting population was practically impossible. The Commissioner had himself complained as bitterly against this system as any clamant champion of the harassed occupiers and had demanded instant legislation for placing the liability on the owner. Meanwhile, he had no alternative but to effect speedy recovery of taxes under a threat of distress warrants. In the chorus of complaints from the occupiers the owners of properties also joined with their melancholy refrain of oppressive house rates and distress warrants. In the words of Martin Wood, then editor of the *Times of India* and a member of the Bench of Justices, the vocabulary of denunciation had been exhausted in characterizing the method of collecting the municipal revenue as one of the most iniquitous things the sun looked down upon, either in torrid or temperate zones. As many as six different special committees were appointed to investigate and report on various questions, such as the reorganization of the system of keeping accounts, the re-adjustment of the fiscal system of the Municipality, the taking of an inventory of all Municipal property in the city, and above all to suggest changes in the constitution of the Corporation and the position of the executive, or in other words to

suggest ways and means of clipping the wings of the Municipal eagle.

This was the beginning of the storm that was to break upon the Commissioner. Brilliant as was the new régime and wonderful the progress made by the city in the matter of improved sanitation, roads, water-supply and other amenities of urban life, the improvements brought in their train a harvest of financial difficulties. Armed with full executive authority, the Commissioner grew impatient of delays and intolerant of criticism, spurned constitutional limitations, did what in his opinion the interests of the city required and then applied for sanction, never pausing to consider from what mysterious fount the money for improvements was to flow. The result was financial embarrassment. A quinquennial review showed that while the ordinary income of the Municipality from 1865 to 1870 amounted to Rs. 1,89,27,143, the ordinary expenditure was Rs. 2,26,98,519, showing a deficit of Rs. 37,71,376. The Justices apparently had no idea that their financial position was so unsatisfactory, although they realized generally that they were drifting along the road to ruin. Hence their anxiety to stem the tide of extravagance. Crawford, however, paid no heed to the early signs of the storm. His attitude towards the Bench of Justices became more and more provocative.

The first fateful step taken by the Justices was to ask Government to appoint a Committee to report upon the system and administration of the Municipality and upon the changes that were necessary in the constitution of the Municipality and the Municipal Act. They urged that the unruly Commissioner required financial control and that the Controller was unable to curb him. In reply they were informed that before Government would consider the advisability of altering the existing arrange-

ments, they would 'await the expression of an opinion from H. M.'s Justices' as to whether they themselves could not, under the powers they already possessed, secure a more complete control than that which appeared to have been exercised. The Justices submitted a further representation to Government indicating the scope of the proposed inquiry into the affairs of the Municipality and added that they had not taken that course of 'invoking the aid and counsel of Government' until after they had 'fairly and earnestly striven to grapple with and overcome the peculiar difficulties of the case.' Government were, however, not convinced as to the expediency of appointing a Commission. It was not clear to them in what respect the Act was deemed defective. 'As at present advised,' observed the Chief Secretary to Government in his letter of 8th May 1869, 'he (His Excellency the Governor in Council) is inclined to think the Justices have not availed themselves of its provisions to the full extent allowed, especially in respect to the powers granted them for supervising income and expenditure.' The reply was not calculated to soothe the feelings of the Justices. The popular agitation against the Commissioner grew more and more violent and the *Times of India* criticized the attitude of Government in very scathing terms :

'After receiving this letter, the Bench would be fully justified in declining all further public activity in Municipal affairs. No such plea, however, would be warrant for silence or slackness on our part, and we shall take any and every opportunity that may arise to expose the glaring defects of a system which, by the confession of its admirers, has brought us into great wants, great debt and great embarrassment, and, as we have repeatedly pointed out, affords no sort of guarantee that these expensive luxuries will not go on increasing year by year, until the lucky hour arrives when we shall have a Government in Bombay.'

Meanwhile, the intrepid Commissioner went his own

way. For example, without a reference to the Justices he arranged with A. H. Wadia to lease his building, which after several alterations is now owned and occupied by the Army and Navy Stores, for ten years at a monthly rental of Rs. 2,825. The public was indignant. A newly-formed Ratepayers' Association sent a monster petition to the Bench of Justices on 9th November 1870, complaining bitterly of extravagant expenditure and grinding taxation and of the army of bailiffs let loose on them with distress warrants. They also expressed the intense dissatisfaction of the people at the autocratic administration of the Municipal Commissioner, who appeared to defy everybody, including the Bench of Justices. Another petition followed, urging the Justices to relieve the people of the evils inflicted on them by the operation of the Municipal Act, which, according to the *Bombay Gazette*, ought to have been styled 'Sir Bartle's Folly.' As, however, the Justices felt powerless to mend matters, the Ratepayers' Association approached Government for redress.

The *Bombay Gazette*, which under James Maclean's editorship was then a power in the land and was no respecter of persons from the High Court Judges downwards, lent all its support to the outcry for reform. In a trenchant article in its issue of 16th November 1870, it showed how arrogant and intolerable the attitude of the Commissioner had been towards the Bench in spite of all agitation for reform. The following extract from that article shows to what *impasse* affairs had drifted :

'We have the honour to suggest that the Justices, at least the European Justices, should take the Municipal Commissioner at his word and retire from the Bench altogether. It would be the more dignified mode of proceeding. A public functionary who considers that six hours is sufficient to dispose of a budget authorizing the expenditure of 35 lakhs, plainly regards the Bench as a mere court in which he may register his decrees. Impatient

of criticism, he deals with the members of the Bench, who either oppose or criticise him, as if he were the master and they were the servants. At the meeting last week, after describing the principle speech as a great "flow of oratory" full of general statements and general assertions, he said the Bench wanted to shift the responsibility of the expenditure on to his shoulders and politely added:—"You have to take that responsibility upon yourselves and that responsibility you shall take upon yourselves." Not content with this he subsequently denounced opposition generally, and said, the time of the Bench was taken up by wild and unsupported assertions; while Dr. Hewlett did not think it improper to condemn all remarks not in harmony with his views as "mere verbiage". After displaying this tolerant disposition last week, the Commissioner on Monday, finding his patients bore it so well, increased the dose, taunted the Bench with lack of public spirit and suggested that all who would not attend their civic duties should retire from the Bench; attending their civic duties, meaning, in the opinion of the Commissioner, voting his estimates munchance. Considering how the Bench is without any remedy we think the best plan would be to frame a list of Justices who will entirely agree with the Commissioner and allow the rest to take his courteous advice and retire altogether; and that in future Government, which does not care a straw about the Municipality, should before appointing any gentleman a Justice of the Peace, make him sign a declaration that he will be faithful and loyal to his Majesty the Commissioner and never open his lips to utter a word contrary to the only sacred and orthodox opinions on duty, taxation, and expenditure, to wit the opinions of the Municipal Commissioner.'

CHAPTER XIX

THE STRUGGLE FOR REFORM

THE day of reckoning came at last. On the 30th June 1871, a special meeting of the Bench of Justices was held at the instance of the late Mr. J. A. Forbes of the famous firm of Messrs. Forbes & Co., and other leading Justices, European and Indian, to consider the momentous question of municipal reform. The Act of 1865 had raised high hopes of rapid advance along the path of local self-government. In fact, however, this so-called Magna Charta of Bombay had ignored altogether the most elementary principles of popular government, notwithstanding that enthusiasts like Dr. Birdwood believed that it would give a great impetus to democratic and socialistic principles and revolutionize society. In a letter to the *Overland Mail* that gifted scholar and journalist observed: 'If I said what I thought the Municipal Act would exactly do, say before the Bicentenary of Plassey, I should perhaps be hanged for treason or set upon as an unmitigated communist. Nevertheless, a clean people never can be slaves.' A beautiful dream of freedom and progress which in spite of the failure of the Act of 1865 and of the Montague-Chelmsford Reforms scheme of 1919 may yet prove true before the Bicentenary of Plassey! At the moment, however, poor Dr. Birdwood was laughed out as a visionary, and excepting a few champions of the Commissioner the Bombay public regarded the much-vaunted Act as constituting a shadowy simulacrum of self-government, which those in authority dared not allow to materialize.

The tribunes of the people and the watch-dogs of local finance clamoured for a radical reform in the machinery

of municipal government. All were practically agreed on one point—immediate reform of a constitution under which it was possible for the chief executive officer to defy the supreme authority. Reading the account of the struggle that took place and the reports and recommendation of various committees and associations, one cannot help regarding the Councillors of the day in the light of the proverbial inefficient workman quarrelling with his tools. 'Away with the Act, away with the Commissioner,' they cried, oblivious of their own default and forgetting that only three years previously they themselves had passed a vote of confidence in him. Forbes led the attack and proposed that as Act No. 11 of 1865 had been found 'inexpedient and insufficient for the full and proper management of the City of Bombay, and for the perfect conservancy and improvement thereof,' in lieu of clause 1 of the said Act, whereby the entire executive power and responsibility was vested in one Commissioner appointed by the Governor in Council, the entire executive power and responsibility for the purpose of the Act be vested in a 'Town Council' of sixteen members, six to be nominated and appointed by Government, six by majority of the votes of the Bench of Justices and four to be specially elected by householders (or occupiers to the amount of Rs. 25 per month rent); and that the Council should be designated the Town Council of Bombay presided over by the Chairman of the Bench of Justices.

His long and reasoned speech was free from personal recriminations. It was an impeachment more of the system than of the man who had to work it.

'I say,' said he, 'Act II of 1865 is bad, and has fostered a bad system and it is to protest against the system and to ask the Justices to-day to approve of steps for getting that system removed and altered that we are here to-day . . . I think the great desideratum in administering municipal business is caution and care and due consideration in every step that is taken,

not sudden jerks and sudden purchases, and the sudden contracts and the sudden leases that are entered into. What I complain of in the present system is that everything is left to one Commissioner who feels himself responsible to no one—to the Bench he refuses to be responsible and Government don't care to hold him responsible.'

The proposition was seconded by Dr. Blaney. After him came the turn of Captain Hancock, the chivalrous advocate of the Commissioner. He condemned the principle of management by town councils and moved an amendment to the effect that the proposal to vest executive power and responsibility in a Town Council assisted by a paid Secretary was a resuscitation of the plan on which the late Board of Conservancy had been constituted, was wrong in principle and would fail in practice, and that the 'supervision and control' of Municipal affairs should be entrusted to a Town Council composed of not more than 40 members, one-half the number to be Europeans and the other half Indians. He thus wanted a purely administrative council, not an executive one. 'While the Town Council should have full power of supervision and control, there should still be,' he urged, 'an executive officer whom we could hold responsible for the executive duties of the Municipality.'

Several other amendments were moved which it is unnecessary to examine in detail. The battle of reform was waged for many days in the Town Hall and caused great public excitement. On the first day the Durbar room of the Town Hall was so crowded that when Forbes concluded his long speech, Captain Henry submitted that the atmosphere of the room 'was almost unbearable' and that they should move into the larger hall. It was, however, not convenient for the meeting in the midst of its proceedings to adopt this suggestion but the subsequent meetings were held in the Durbar Hall.

All were agreed on one point—reform. The difference was only in regard to ways and means. At one of the meetings a monster petition was presented to the Justices by the rate-payers of Bombay under the leadership of Moolji Thakersi. A grand demonstration was organized by the Bhattia leader. The memorialists marched to the Durbar Hall in a procession with bands playing at its head. This Terpsichorean demonstration produced the desired impression on the public and enlisted its sympathy in favour of the reform party. After protracted sittings, during which the Commissioner valiantly defended his policy, the debate was brought to a close on 7th July 1871, the original proposition and several amendments were thrown out and the Bench eventually adopted by 86 votes against 26 an amendment moved by James Maclean seconded by Thomas Ormiston, which with a rider tacked on to it ran as follows:—

'That six years' experience of an ever-increasing and unchecked expenditure has satisfied the Bench of its own inability, as it is at present constituted, to give to the municipal finances the 'constant and effectual supervision contemplated by Act II of 1865.'

'That the Justices in this meeting assembled, therefore, respectfully request Government to transfer all the financial powers vested in the Bench and the Municipal Commissioner to a Town Council of sixteen members, six of whom shall be nominated by the Government, six chosen by the Bench of Justices and four elected by the rate-payers.[1]

'That the right to appoint, and when necessary to remove, all the executive officers of the municipality and to fix their rate of remuneration, be vested in the Town Council, and be exercised by them subject to the approval of Government if Government desire provision to be made for the exercise of their right of veto in the matter.'

[1] The amendment as originally proposed contemplated a Town Council of 40 members to be partly nominated by Government and partly elected by the rate-payers.

The agitation, however, did not end with the meeting of the Justices. It was continued in the columns of the press, and the *Times of India* made vehement appeals to the Governor, Sir Seymour Fitzgerald, to do something to allay popular feeling. This, doubtless, led to the early appointment by Government of a Committee to make an exhaustive inquiry into municipal finance. Unlike present-day commissions it was a small and select body composed of Theodore Hope, then Collector of Surat, Dr. Clive, Assistant Accountant-General, and Sorabji Shapurji Bengalee, one of the sturdiest critics of the Crawford régime. It submitted its report in October 1871. Its examination of the financial position of the Municipality showed that there was a deficit of Rs. 7,10,796. On this finding the *Times of India* demanded the head of the Commissioner.

'They (Government) now know,' it observed, 'and all India knows that the law has been violated by our municipal officers, formal restraints have been systematically spurned, unauthorized expenditure has been incurred and concealed to a serious extent, the public credit has been placed in jeopardy, costly outlay has been promoted without anything approaching to adequate results while many most needful works of civic improvement remain in abeyance, and the people of this most populous city in India, where modern corporate institutions might be expected to work best, have been disgusted with the very name of municipality, to such an extent that years must pass before the requisite spirit and confidence of coöperation can again be evoked. If the Government of Bombay, in face of this, desire to retain in office a man, whose characteristic boast it has been that he was responsible for everything done, then Sir Seymour Fitzgerald and his colleagues must be prepared for a struggle with the Government of India and the Secretary of State which will not conduce to the prosperity and glory of the Presidency.'

In short, Government had allowed the Municipality to drift among the shoals, and the advocates of reform

exhorted them to use their utmost effort 'to extricate the craft.'

On the other hand, the *Star of India*, edited by Knight, the previous editor of the *Times of India*, gallantly defended Crawford and exposed the hollowness of the arguments of its contemporary, but nothing could avert the fate of the Commissioner. He was recalled and had to vacate his appointment on 28th October 1871. Dr. Hewlett, the Health Officer, was put in charge of the office till 30th November when Theodore Hope relieved him.

It was a tragic termination of a brilliant administration. Looking back over the years that have since passed, one cannot help thinking that Crawford's 'Himalayan folly' was not so much his extravagance as his arrogance, not so much his defiance of constitutional limitations as his instinctive abhorrence of compromise and conciliatory methods of administration. His worst enemy was his own temper. Had he been a little less impetuous and a little more tactful, the very Justices who combined to drive him out of office would have found justification for the irregular expenditure of which they complained and would have memorialized Government to extend his term of office to enable him to continue his beneficent work for the improvement of the city by preparing and equipping it for the great changes consequent on the completion of the railway system, the opening of the Suez Canal and the laying of the new cables. But he paid no heed to the warnings to act with circumspection, cared not to take the Justices into his confidence or to seek their assistance, and kept them in ignorance of the embarrassed state of the city's finances. Shouldering all responsibility, the municipal Atlas struggled hard to postpone the day of reckoning, not pausing to consider whether the means he employed to that end were

constitutional or the reverse. For a while he lulled the Justices into a false sense of security, so that when the truth was known it came on the Bench like a thunderbolt. The atmosphere was surcharged with electricity from day to day until it overwhelmed him. He did not, however, allow himself to be swept from the scene without a stubborn fight. The struggle had actually commenced in the year 1869. In the report for that year he maintained that the then Health Officer had succeeded in convincing the Select Committee of the Bench that but little reduction could be hoped for in the expenditure on the Health Department, which was the target of much criticism. 'But,' he added, 'many sceptics remained, the majority, as usual, utterly ignorant of the work to be performed, yet claiming to be judges of its cost, not to be convinced by the statements of those best acquainted with the city's wants, unmoved by comparison of its statistics with those of other cities, unmindful of its size and population, but possessed with the one stubborn notion that so many lakhs of rupees is a large sum to spend on the conservancy of the town.'

In the report for the following year he reverted to the charge :

'Imagine,' said he,' a steamer despatched to sea, ill-found in stores and coal, on the eve of stormy weather, without chart or compass, having in tow the unmanageable hulk of an old wreck, yet required to force its way at speed through an almost unknown channel, abounding with rocks and shoals ! Thus was the Municipality launched in 1865, in the lowering sunset of Bombay's imaginary prosperity, impeded by an unascertained deficit : much expected, much absolutely necessary to be done at once—no statistics, and a new and intricate system of taxation to be worked out ! What wonder if the steamer has touched some rocks and shoals in its perilous passage ; if some cargo has been cast overboard ; at least the health and comfort of the passengers has been well cared for, and their lives are safe ! With this picture before us, it is certain that whatever form the new Municipal

constitution may take, it will be started on a new voyage with an ascertained financial position, and a clear way. But it is quite as important that the ship should be retrimmed and the cargo readjusted, in other words that the whole system of taxation should be revised, partly in the manner I have suggested for the Direct Taxes, but chiefly by reducing Direct, and increasing Indirect, Taxation, thus spreading the burthen over the masses. Let the ballast also, that is the dead weight of loans, be better distributed over the ship's bottom, and let what remnants remain of the old hulk behind be cut adrift. Lastly, let the agents or owners of the ship find it well in all stores and supplies, and retain in their own hands its accounts and money matters. The captain and the crew will have ample occupation in navigating the ship at speed amid the many dangers of the Indian Ocean, and in watching over the health and safety of the passengers. Let the new Town Council then retain, in its own hands, all financial control and take with it the duty of adjusting or imposing taxation. It will be for the executive, working in the interest first of the whole city and afterwards of each district, to urge the need for expenditure, to get as much as it can, and to spend it to the best advantage. It was unreasonable to expect success from a system whereby the executive was at one and the same time expected to spend money and to save it, and also to carry through fair and foul weather the entire odium of taxation.'

CHAPTER XX

A PRESCIENT LECTURE ON CONSTITUTIONAL REFORM

AMONG the Reform Party of the Senators was a youth of twenty-six, who felt that personal rancour had clouded the vital issues involved in the question of municipal reorganization and that in the heat of the strife his senior colleagues had failed to see the wood for the trees. Local Government could only give satisfaction, if based on popular representation, whereas the proposal adopted by the Justices contemplated the transfer of financial control to a Town Council of sixteen members, of whom only four would represent the rate-payers. This in his opinion was a mere palliative and did not touch the root-causes of the failure of the administration under the Act of 1865. The true remedy lay in a radical reorganization of the central body, whereby the Justices might be made dependent on the franchise and amenable to the will of the people.

This discerning youth was Pherozeshah Mehta. He had joined the Bench of Justices in 1869 after his return from England, but had done nothing remarkable during the first two years. The hour had arrived, however, when he was to give an earnest of those valued gifts of perspicacity, sagacity and magnanimity, which distinguished his long and honourable career in the public life of the city and the country. Imbued with high ideals of freedom and representative government, ideals evolved in the school of John Stuart Mill, he felt unable to approve of any of the schemes suggested by his colleagues. Although his sympathies were with the advocates of

reform, he was opposed altogether to the principle of vesting all executive power in the proposed Town Council, the only effect of which, in his opinion, would have been 'to substitute in the place of the responsible executive officer a heterogeneous body of men equally powerful, men incapable and difficult of being controlled, and with their responsibility so attenuated, by division and subdivision, as to render them practically and really entirely irresponsible.'

There was nothing new in this observation. Others had made it before, and none more effectively than the famous engineer Ormiston, who had warned the Justices in the course of the debate on the proposed reforms that 'committees, as was well known, had neither a soul to be damned nor a body to be kicked.' What distinguished Pherozeshah's speech from those of his predecessors was the emphasis he laid on the fact that the only way 'to bring about a genuine and living spirit of Municipal life in the city was to have a large rate-paying element.' The root of the evil lay in the constitution of the Bench of Justices—Justices elected for life. 'There never will be efficient Municipal administration in Bombay,' he observed, 'till there is a popular and responsible Bench of Justices, elected at regular intervals by the rate-payers themselves, a consultative Town Council elected out of it, with a responsible executive officer as its head.' He considered it inadvisable to press this point at the meeting of the Justices, but reverted to it in a paper which he read before the Bombay Branch of the East India Association at Framji Cowasji Hall on 29th November 1871. Before dealing with the question of constitution he gallantly vindicated the policy of the dethroned Municipal satrap. No one was in a better position than he was to compare the condition of the city before and after the Crawford régime. He had left

for England a few months before the Act of 1865 was passed, and had returned four years later to witness striking reforms. 'The wonderful transformation of the Bombay of 1865 into the Bombay of 1871,' he observed, 'deserves in the main to be emphatically proclaimed. Mr. Crawford was its saviour and benefactor . . . . It is exactly like the case of a general who, in the desperate hour of the battle, defies strict orders, relies upon his own judgment, and gains the victory. Death, the just punishment of his insubordination, if he had failed; a grateful act of indemnity, the reward of his successful intrepidity.' He did not desire to minimize in any way the gravity of Crawford's constitutional and financial irregularities, but, he asked,

'Are we to forget, in our day of safety and prosperity, that he has in so short a time driven disease and death from our doors where they were such constant visitors before? Are we to forget that if he has touched our pockets too closely, he has put us in a position to enjoy in comfort and safety the remainder a thousand times more, that in the case of the poorer classes, by improving their chances of health and vigour, he has removed the continual drain which sickness and want of health cast indirectly upon their pockets, and actually supplied them with the means of fighting more vigorously for their livelihood? And not only so, but are we to heap disgrace and obloquy upon his name and fame for having preferred to work out our salvation in defiance of legal forms and authorized sanctions than tardily drag it out or ingloriously incur utter failure by line and rule, like Monsieur Tomes who would prefer to kill his patient according to rule than cure him against it, or the German officer who preferred to lose a battle according to correct tactics than gain it in spite of them?'

Coming to the question of the constitution, the lecturer urged that if there was one thing more than another conclusively established in the reform debates, it was the utter incompetence of the Bench of Justices, constituted as it was, to carry on the municipal govern-

ment of the city. The Justices were elected by Government for life. It cost them nothing to gain a voice in the municipal administration of the city. It mattered little whether they were active or inactive, conscientious or the reverse; their seat on the Bench was secure for all time. Taking his stand on the principles of government propagated by Mill and Macaulay, he pleaded vehemently for the introduction of 'the free representative principle in the constitution of the municipal body.' It was assumed that Indians by temperament and tradition were inapt for representative institutions, municipal or political. This myth the lecturer had no difficulty in dispelling. Quoting from a speech delivered by Anstey before a meeting of the East India Association in London, he established with the help of various authorities from Elphinstone downwards, the dictum of Anstey that 'the East is the parent of municipalities.' But it was alleged that the village panchāyats, in which those authorities discerned the germs of local self-government, were wanting in many an important feature of the representative institutions of the West, and that at any rate the people of India in the condition then existing were not ready for the introduction of such institutions. The lecturer had not the materials before him to rebut the first statement. As regards the second, however, the fitness of the people for exercising the municipal franchise, he laid stress on the public spirit displayed and the intelligent part taken by the citizens of Bombay in the agitation for municipal reform, the formation of the rate-payers' Committee, and their meetings and resolutions, and the worth of the municipal work already accomplished by the Bench of Justices. It was obvious that 'Bombay was a city pre-eminently fitted for the introduction of a municipal representative body elected by the rate-payers themselves.' He urged once more

that what was needed was a comprehensive measure securing such a radical reform, whereas the leaders of the reform movement had brought forward a remedy which might well make them exclaim, 'Heat not a furnace for your foes so hot that it do singe yourselves.' This was an allusion to the proposal to set up a town council which, relying on the authority of Mill, he condemned as a retrograde step, likely to plunge the municipality 'into a gulf of mismanagement, inefficiency and jobbery.'

He was convinced that the best method of administration was to entrust the executive function to a single responsible officer controlled by a representative assembly and that town councils with executive powers would prove centres of inefficiency and jobbery. Ultra-conservative as he was on all questions of constitutional reform, he adhered to this conviction until the day of his death and declined to favour any proposal to transfer even a tithe of the duties and responsibilities of the chief executive officer to committees of the Corporation. When in the year 1908 the present writer expressed his dissatisfaction with the Committee system of the Corporation and suggested the formation of Special Committees to consider special subjects, Pherozeshah said he foresaw many abuses even though it was not then suggested that the committees should be vested with executive powers. He frankly confessed his apprehension that members of a certain type would take undue advantage of their office as members of special committees. The writer could not help asking him: 'If we are to distrust our own colleagues even in such simple matters, what becomes of the Congress cry for self-government?' 'Everything at its proper time,' he said with that characteristic smile and gesture which seemed to suggest that he did not violently differ, but that he would not alter his

opinion. Until his death, and for at least seven years after, the proposals for revising the committee system of the Corporation remained in abeyance mainly because he had expressed his opinion against such an innovation. Since then there has been a reaction and a considerable section of the advocates for reform now demand, as we shall see in the course of our survey, the immediate introduction of the system of executive committees.

To return to the lecture, Pherozeshah's championship of the unpopular Commissioner greatly incensed the audience. Much disorder prevailed and vigorous marks of dissent punctuated the lecturer's observations concerning the administration of Crawford. He, however, continued 'though the short, sharp, staccatoed hiss which marked every full stop, and which ultimately warned us of where the very commas occurred, was still sent forth with exemplary vigour and enthusiasm. Scarcely, however, had each of these gentle reminders of disapproval been uttered, than it had to do battle with an ocean of other cries of " shame, shame, insulting," mostly disputing its authority and amongst which it soon expired . . . . . Each moment the confusion increased till the whole meeting rose, as if by one accord, and each person began to raise his voice in defence of the party he considered in the right. Even in this one might have heard the opinions of those who were pressing close to him had it not been for the vigorous expedient, which occurred to some, of laying into the tables with their walking canes right merrily. This, however, was eventually stopped by the gas being turned out just as the second chairman was about to take his seat. This had the effect of causing parties to see that they were really in the dark, which it would have required many hours' talking to do.'[1]

[1] *Bombay Gazette.*

The storm provoked by unpalatable home truths did not, however, subside with the unceremonious ending of the meeting. The *Times of India* condemned the lecture as a 'peculiar, perverse, erroneous and sophistical production,' and expressed its surprise that it should have been allowed by the committee of the Association to be read at the general meeting. This was a signal for a requisition signed by several members of the Association calling for a special general meeting to consider the desirability of expunging the paper from the records of the Association. A meeting was accordingly convened in the Framji Cowasji Institute. Pherozeshah was present, but he walked out with one or two others, shortly after the commencement of the proceedings, followed by a tempest of hisses, punctuated by shouts of 'order,' 'order,' and vigorous 'hurrahs.' The proposition for expunging the paper from the record of proceedings was carried by a large majority and the chairman of the meeting, Dr. Bhau Daji, declared that the paper was to be treated 'as not read and as not worth discussion.' He tendered his apologies for the incident and assured the public that there would be no recurrence of it in future! 'It was,' remarks Pherozeshah's biographer,[1] 'one of the most characteristic incidents in the career of Pherozeshah. It was at once a measure of his strength of character and his political acumen.'

[1] H. P. Mody, *Life of Pherozeshah Mehta*.

CHAPTER XXI

THE FIRST INSTALMENT OF SELF-GOVERNMENT

ACT III OF 1872

THE skeleton scheme outlined by Pherozeshah Mehta in his speech at the Justices' meeting and in the subsequent lecture was practically embodied in the enactment of 1872—no mean triumph for the budding orator and politician, who soon attained a prominent position in the sphere of civic government. But the so-called Reform Bill, originally introduced in the local Legislative Council on 27th March 1872, was something quite different. That measure, according to the Hon'ble Mr. Tucker who stood sponsor to it, was the work of several hands and the product of more than one head, and was a 'compromise of certain extreme opinions.' It was intended to be a step on the progressive march of reform, but it was such a halting and clumsy step that the public were in no way enamoured of it. Indeed, it seems to-day to be a parody of representative institutions in European cities, the shadow rather than the substance of self-government.

The Justices had been originally selected as representatives of the citizens of Bombay, as they included a fair number of the most enlightened and intelligent residents of Bombay. Being at hand, they were accepted as the most efficient body available to superintend the municipal government of the city. Their number was, however, undefined and variable, and they were in any case too large a body to be an efficient instrument of control. It was quite uncertain how many would attend a meeting or be dragged in to influence the voting. To

remedy this defect and to provide for regular and consistent action by well-defined and systematic organization, it was proposed to limit the number of those who were to constitute the Corporation. The Bill, therefore, embodied a scheme of municipal government which converted the Bench of Justices into an electoral college, from which 64 members were to be elected for the Corporation—half the number being selected by Government and half by the Justices ; 16 additional members were to be selected from the rate-payers (not being Justices of the Peace), half of whom were to be nominated by Government and half elected by ' persons resident in the city of Bombay who had paid owner's house-rates to the amount of not less than fifty rupees.' All the members were to hold office for two years only, but were eligible for re-election. Thus the Corporation was to consist of 80 members, of whom all except 16 were to be Justices of the Peace who were all nominees of Government. Of the sixteen who were to form one-fifth of the Corporation, only half the number was to be elected by the rate-payers. In other words, only one out of ten members of the Corporation was to be representative of the rate-payers. But what was even more objectionable was that the franchise was denied to the majority of rate-payers. The constituency was restricted to those who paid ' owner's house-rate.' The large body of rate-payers who, as occupiers of houses, paid the lighting rates, water-rates, police rates, halalkhore cess and wheel-tax, were altogether omitted, and even in the class of house-owners, those who paid less than fifty rupees per annum as house rate were disqualified both for membership and for the franchise.

The Municipal Commissioner was still to be the sole executive officer. His powers to spend money were subject to the supervision of the Corporation and the

Town Council of twelve members, of whom six members including the Chairman were to be nominated by Government; but in other respects he was vested with the entire executive power and responsibility. Government reserved to themselves the right of appointing and removing from office an Executive Engineer, a Health Officer and a Municipal Accountant. The last named officer was to have charge of all the accounts of the Corporation and to be Secretary to the Town Council. The accounts were to be examined by auditors appointed by the Corporation but they were to be further scrutinized, once in every six months, by auditors appointed by Government and paid out of the Municipal Fund.

Within two months from the passing of the Act the Governor in Council was to frame bye-laws for the regulation of the conduct of business at the meetings of the Corporation. This was self-government forsooth! But the most obnoxious provisions were those relating to the control of Government. Upon complaint made to the Governor in Council that the Municipal Corporation or the Town Council or the Municipal Commissioner had made default in carrying out the provisions of the law for the municipal administration of the city, it was open to Government to make an order fixing a period for the performance of its duty by the authority concerned, and if such duty was not performed within the time limit, Government had the right to have it carried out by any person whom they might appoint, at the expense of the Corporation.

Thus with the minimum of popular representation the Bill combined the maximum of Government control No wonder that the *Times of India* characterized the new element of popular representation as 'the sprat thrown to the whale,' and the Advocate-General ridiculed it in the course of the debate in the Legislative

Council as 'a homeopathic dose of the popular elective principle and an overwhelming dose of Government supervision.'

The member in charge of the Bill, while introducing the measure, tried to forestall these objections by the following remarks :—

'Now Sir, there seems an earnest desire on the part of a section of the public—I won't say a large section but an influential section—for an extension of the elective principle for the government of the city; but this is a matter which before it can be widely adopted requires the most careful consideration. It must not be forgotten that the systems of election and popular representation which obtain in England have been the growth of centuries, and that the point which has been reached in Great Britain has been only obtained after much conflict and much self-sacrifice, and I for one think that it is impossible in this country, situated as we are, to adopt in their integrity English institutions. For myself I may say that I am not averse to the introduction of self-government among the natives of India, and personally I would be glad to see self-government extended; but I think this must not be done by sudden jerks or leaps in the dark, but by gradual progress, by well-considered concessions which may be progressively enlarged and increased as the persons or classes to whom they have been granted show themselves fit for the boons given to them. It is only in this way that I think self-government can be introduced in India, where the people have been accustomed for centuries to oriental despotism.'

In other words, the infant Corporation was to be held in leading strings until it learnt to walk boldly upon the path of self-government. In those days the battles of the Indians were gallantly fought by Europeans, official as well as non-official. The Advocate-General was the strongest opponent of the principle of the Bill. Pointing out how very small a share of representation the Bill proposed to give to the persons who were most interested in seeing that the municipal funds were well administered and what 'an enormous, excessive

and unnecessary amount of control was allowed to Government,' he added : 'What is wanted is that those who are not owners, but are only rate-payers, should be able to make their voice heard in the question of the administration of the local funds.' Here he was pleading for the most elementary principle of representative government, but it took no less than fifty years before the principle was adopted in the constitution of the Corporation. On the subject of the official desire to keep the infant in leading strings he was even more outspoken. 'It appears to me,' he said, 'that Government might just as well have kept to itself the whole of the work connected with the Corporation, and directed its own officers in the Accountant-General's Department to check the Municipal Commissioner and see that he did not exceed the amount set apart for him to spend.' Such being his views, he did not agree to serve on the Select Committee to which the Bill was referred and only at the special request of His Excellency the President, Sir Seymour Fitzgerald, did he consent.

Before the second reading of the Bill Government were flooded with representations from various classes and popular societies, protesting against the niggardly instalment of self-government proposed in the Bill. While it was no easy task for the Select Committee to adopt the Bill to the conflicting and irreconcilable opinions and demands of different sections of the public, all were agreed on one point, namely that the representatives of the tax-payers ought to have a potential voice in the management of the city's affairs. Although, therefore, the Committee included men like Tucker, who sincerely believed that much harm would be done to the cause of local government in Bombay if at that critical juncture popular representation was appreciably enlarged

and Government control relaxed, they felt compelled, in deference to public opinion, to waive their own particular sentiments and recommend a more liberal measure of self-government than that previously offered. While the Committee was sitting, there was a change in the head of the Government. Sir Augustus Spencer presided over the Council's meeting and he was of opinion that as it had been decided that popular representative institutions should be conceded to Bombay, the experiment should be fully and fairly tried. Accordingly, the Bill, as it emerged from the Select Committee, made many valuable concessions. The number of councillors was reduced from 80 to 64 of whom 32 were to be elected by the rate-payers, sixteen by the Justices and the remaining sixteen nominated by Government. Thus instead of nominating one-half of the members, Government nominated only one-fourth ; the Justices, in lieu of electing two-fifths, elected only one-fourth and the rate-payers elected one-half of the total number instead of one-tenth. The franchise also was broadened. Every resident rate-payer who should have attained the age of 21 years and paid during the year in which the election was to take place Rs. 50 in the shape of house, police, lighting and supplementary rates, was entitled to vote at the election of the representative members. The amended Bill, however, raised the pecuniary qualification necessary for members of the Corporation from a payment of Rs. 50 per annum on account of municipal rates and taxes to a payment of Rs. 100 per annum on account of house, lighting, police and supplementary rates. It was deemed but right that a higher qualification should be imposed in the case of a member of the Corporation than in that of an elector. This would, however, have excluded nearly all the professional classes of the city including such eminent citizens as Blaney and Nowrozjee Furdoonji. It was,

therefore, agreed in the Council to adhere to the old standard of Rs. 50.

The Town Council was to consist of eight members elected by the Corporation and only four nominees of Government, the Chairman being appointed by Government from the twelve members so elected. The power of nominating the Municipal Commissioner was reserved by Government, but the appointments of the Health Officer and the Executive Engineer were vested in the Corporation, subject to confirmation by Government. The Select Committee considered that the original provisions of the Bill relating to the mode in which the municipal accounts should be kept and audited were in many respects defective. Those provisions deprived the Commissioner of the management of municipal accounts and placed them in the charge of a Municipal Accountant appointed by Government. The Committee was of opinion that it would have been extremely difficult, if not impracticable, to carry out the account work on the proposed plan, and that it was essential that the municipal accounts should be kept by the Municipal Commissioner and his office establishment. The provision regarding the appointment of a Municipal Accountant was, therefore, deleted and a new section introduced, providing for the appointment of an officer to be termed Secretary to the Town Council, who should be appointed by that body. One of the principal duties of this officer was to assist the Town Council in the conduct of the weekly audit of the municipal accounts. The accounts were also to be audited monthly by the Corporation auditors; and a third audit by Government officers was considered necessary. The powers of the Commissioner in respect of contracts were restricted within certain limits. In regard to this and several other matters of executive

action he was required to obtain the approval of the Town Council.

The Bill was thus purged of several obnoxious features and the member in charge of the Bill hoped that 'the liberal concessions' would go far to allay public anxiety. It was nevertheless exposed to a merciless fire from the reform party. The *Times of India* was once more to the fore. To that journal the Bill appeared to be one 'flock of quibbling regulations and crowd of supererogatory provisions.' It compared it with the 'monster road roller' of the Municipality—very imposing, very heavy and withal clumsy, costly and ill-fitted in its essential parts. The 'bludgeon' clauses empowering Government to take drastic measures in the event of default on the part of the Corporation, and the provisions vesting in the Commissioner wide executive powers appeared to harbour 'old foes with a new face.' In the Council however the member in charge of the Bill denied that Government had shown distrust of the people and he justified their attitude on grounds of public policy and expediency.

'It is quite true,' he observed, 'that we have not given to the Corporation absolute or unlimited powers, but it would be opposed to the sound constitutional principles which ordinarily govern the proceedings of Englishmen, whether in the mother-country or in the colonies or dependencies, to confer unrestricted powers upon a body such as the Corporation created by the Bill is intended to be. In this Council our authority is strictly limited, and there is no person or assembly in India or elsewhere in Her Majesty's dominions entrusted with any of the duties of Government, with the exception of Parliament, consisting of King, Lords and Commons, whose authority is absolute or whose powers are not strictly limited.'

This was a plain, unvarnished statement of facts. Fifty years have since elapsed. During the period the world has taken immense strides along the path of local

autonomy. Everywhere keen constitutional struggles have been waged for the extension of the liberty of the people, but we are not aware of any serious effort to absolve representative institutions concerned with the local government from the entire control of the central government. In fact such control within clearly defined limits is recognized as having a very salutary effect on the administration of local affairs. But the defence of the member in charge of the Bombay Bill had no effect on the opponents of the measure. Munguldas Nathoobhoy, who represented the reform party in the Council, expressed the fear that if the objectionable sections were retained, no independent gentleman would consent to join the Corporation or the Town Council!

As there was no provision in the Act of 1865 corresponding to this section, much excitement and indignation prevailed in and outside the Bench of Justices at what seemed to be a want of confidence in and usurpation of the authority of the Corporation. In the heat of excitement even the sober representatives of the reform party in the Council failed to appreciate the fact that by the proposed legislation Government were virtually delegating a portion of their administrative authority to the agencies created by the Bill and that in thus delegating the authority which they had previously exercised in the city it was their duty to see in the interests of the public, which they were bound to protect, that they provided adequate safeguards against the inertia and contumacy often exhibited by such popular assemblies. The imposition of such restraints simultaneously with the extension of powers and gift of concessions should not have been taken to imply a distrust of the people; for there was indeed nothing humiliating or derogatory in the reservation by the state of ultimate authority to interfere in case of neglect on the part of the Corporation

or the Town Council or of the Executive officers of the Municipality. These mandatory clauses were somewhat irreverently designated in the Select Committee the 'bludgeon clauses.' The member in charge of the Bill, however, thought they might more aptly have been styled the 'life-preserving sections of the Bill.' There were not many matters included in these clauses, and Government were prepared to consider any suggestion for the clearer definition of the limits within which these clauses should be operative.

It had been urged that the reservation of such authority was an innovation; but there were good precedents for it, as the Advocate-General, Mayhew, was able to establish.

'I believe,' said he, 'I am the culprit who irreverently in the Select Committee described a certain clause in the Bill as the 'bludgeon clause,' and I feel therefore that I am bound to say a word upon that point. I objected certainly to the clause, but I by no means meant to carry my objections so far as my honourable friends Mr. Forbes and Mr. Munguldas have done. I think it is quite right that there should be such a clause in this Bill, but the question is, to what objects shall it be limited. . . . . I have no doubt that there ought to be an imperative power in matters relating to the cleansing and draining of the city, and there is a precedent for this in the Acts of this Council. I allude to the Mofussil Act II of 1862.[1] Express power is there given to the Government to enforce sanitary arrangements.'

At a subsequent meeting of the Council he referred to the English Sanitary Act of 1866. 'The British Parliament,' he explained, 'with the light of many Acts before it, and apparently with the knowledge that local boards were very often disinclined to carry out powers they were entrusted with, reserved a power in sanitary

[1]This Act provided that the Governor in Council might issue an order to the local Commissioners to execute sanitary works, and that if the order was not obeyed within a week, the Governor in Council might order the Police or Magistrate to execute the same, the expenses to be recovered by suit in a civil court.

matters to one of Her Majesty's Secretaries of State similar to the power we have reserved to Government in this Bill, so that this clause which is so much objected to is not altogether without precedent.'

Despite this defence the representatives of the reform party fought strongly against the retention of the bludgeon clauses, and although they failed to secure their deletion, they had the satisfaction of getting the matters upon which Government could interfere strictly limited and specified. 'I have always been alarmed,' said the Governor, 'at what is called the "bludgeon clause," and if it is to remain, I think, it will be necessary to settle very carefully the matters upon which Government shall interfere. I also think that some such alteration as this might be made.' The clauses were accordingly amended and allowed to remain. They were retained in the Bombay Municipal Act Amendment and Continuance Act of 1878 and also in Act III of 1888 and are still there, and there has been no instance on record of a single self-respecting citizen refusing to join the Corporation on that account.

Towards the other demands of the city's representatives Government turned a deaf ear. They retained the power of nominating the Chairman of the Town Council as well as the Commissioner. Forbes fought hard to secure the subordination of the Commissioner to the Town Council and the Corporation. Beyond the limits of independent action assigned to him he was unquestionably to be their subordinate, but Government declined to fetter his independence in other ways. All that was gained in the final discussion of the Bill was a provision for the removal of the Commissioner from office, for neglect or default, by Government on the votes of not less than 40 members of the Corporation recorded at a special general meeting.

We may now cast a glance at the principal features of the Bill. The composition of the Corporation and of the Town Council has already been dealt with in the preceding paragraphs. While the Commissioner was to be the Chief Executive Officer, the Corporation had the power of the purse. To determine the rates of taxation, to vote budget estimates and to cut off supplies were their prerogatives, and these were considered sufficient to check extravagance on the part of the executive.

All cheques for payment from the Municipal Fund were to be signed by the Commissioner, a member of the Town Council and by the Secretary to the Council. All contracts were to be in writing and to be reported by the Commissioner to the Town Council, special sanction being required for contracts involving an expenditure of more than Rs. 5,000. The Commissioner was thus in matters of finance under the thumb of the Town Council and all his transactions were brought under further control by a system of double audit of accounts by the Town Council and by the Corporation through their auditors.

The annual expenses of the Police were to be determined by Government and the whole or any portion thereof, on a requisition from Government, was to be paid out of the Municipal Fund. While it was left to Government to call the tune and for the Municipality to pay the piper, the control of the Municipal Commissioner over the Commissioner of Police was quietly abandoned. Under the old Act the entire police force was styled 'Municipal Police,' and the head of the force was definitely placed under the authority of the Municipal Commissioner. The new enactment simply provided that the Commissioner of Police should 'co-operate with the Municipal Commissioner for the maintenance of good order and peace throughout the city and should render all the aid that might be in his power to carry out the object of the

Act.' Thus the control of the Constabulary slipped from the fingers of the Corporation and was grasped by Government.

Much discussion in the Council centred round the system of taxation. The Hon'ble Mr. Narayan frankly said that all the excitement in the town was due not to the want of representation or to any earnest desire for self-government, but simply to the fact that the burden of taxation pressed heavily in one direction, viz., house property. On that question different interests demanded different concessions which gave the member in charge of the Bill an opportunity of deriding the opposition offered to the Bill by the representatives of those interests.

'On examination of the speeches of the gentlemen who profess so much confidence in the representatives of the rate-payers,' he said, 'it may be observed that each side would strictly restrict the action of the Corporation in the direction which is opposed to the interests which they more particularly represent. For instance, neither the Honourable Mr. Forbes nor the honourable member who has taken his seat to-day (Mr. Bythell) is disposed to give the Corporation any little latitude of action with respect to Town Duties; and, on the other hand, the Honourable Mr. Munguldas and other members, who represent the house-owning interests, wish to restrain within very small limits the power of the Corporation to increase the house rates and police and lighting rates. Neither section of the opposition, therefore, appears prepared to place the unlimited confidence in the Corporation in matters affecting their own particular interests which they blame Government for withholding in matters which affect the welfare of the entire community.'

Again at a later stage, when the representative of the European mercantile community opposed the proposal to leave a certain amount of discretion to the Corporation in regard to the rates of town duties, His Excellency the President had to remark that nothing had been more remarkable in the course of those debates than

the distrust of one another evinced by the different sections of the Community as represented in the Council. 'I think it is fortunate,' he observed, 'that there is a Government to arbitrate between them.'

After prolonged discussion the owners' and occupiers' taxes and other sources of revenue were fixed. Provision was made for the levy of wheel tax and tolls, but there was no provision for a fire-tax. The police department of the Municipality at this date had a fire-brigade whose services were requisitioned whenever a fire occurred. Towards the cost of this brigade the Fire Insurance Companies were required to contribute a lump sum varying from Rs. 500 to Rs. 1,000 per annum. This arrangement continued till the year 1888 when the existing fire rate was legalized and the Insurance Companies contrived to rid themselves of the liability on the understanding that in lieu thereof they would offer to house-owners lower rates for covering fire risks.

The proposals for the imposition of town duties produced a protracted and memorable debate, and as the question of town dues and transit duties is likely to be brought again before the Council in connexion with the proposals of the Municipality to substitute a terminal tax for town duties, it seems desirable to treat this question in a separate chapter.

CHAPTER XXII

THE CRUSADES AGAINST CORN AND COTTON DUTIES

UNTIL the year 1858 no town dues appear to have been levied on articles imported into the city. Act XXV of 1858 authorized, for the first time, the levy of town duties on ghi, grain, cattle, sheep, firewood, timber and chunam. Bricks and tiles were added to the list by the Act of 1861. In the Bill of 1864 it was proposed to allow the Corporation the option to retain this source of income, but although Cassels, who was in charge of the Bill, pleaded for the retention of the duties for the time being, his half-hearted advocacy of the measure virtually gave the death blow to the duties. He frankly admitted that personally he strongly objected to those duties, but that he and his colleagues on the Select Committee had acted on the principle that they should not interfere more than was absolutely necessary with the system of taxation in vogue. He did not endorse the objection raised by many that the duties considerably enhanced the price of food and unduly oppressed the poor. The proceeds of the Town Duties during the year 1863-64 amounted to Rs. 5,68,943. Divided among a population of 850,000 these duties constituted a poll-tax of rather less than annas ten and three-quarters per head per annum. If they considered only articles of consumption, namely, ghi, grain, cattle, sheep and firewood, the impost amounted to annas six and a third a head per annum. As the quantity of those articles consumed by the rich greatly exceeded that consumed by the poor, it was evident that the real poor of the community contributed only a fractional part of the average toll. T herefore, it

was not because they were oppressive to the poor that he objected to the duties, but because they were 'barbarous and irrational in principle.' He would have greatly advocated the immediate abolition of the Town Duties, but the requirements of the Municipality rendered it inexpedient to close arbitrarily any existing sources of revenue. He had, therefore, so framed the clause that while the duties could not be levied after 31st December 1867, they could at any time before that date be abolished on a representation from the Justices and he had proposed the imposition of a license tax on professions and trades so as to place the Justices in a position to forego the Town Duties in due course. But the feeling of the Council was for immediate abolition of the odious duties. The Honourable Mr. White was brutally frank in opposing the retention even for a short period. His position in reference to the Justices was this : he did not wish to delegate to them the option of limiting those taxes ; he did not wish to leave it to the interested motives of a number of men who were not affected by the taxes to continue them in lieu of imposing increased taxes upon themselves. In his opinion there was no tax so little objectionable as a house tax which was 'a most improving tax,' and if he had been asked, he should not have hesitated to give the Justices power to increase that tax to 20 per cent.

The result of the debate was that the town duties were abolished and a license tax on trades and professions was substituted. This was not an entirely new tax. Before the town duties were introduced the City was familiar with a shop and stall tax which was virtually a license tax on trade. The license tax, however, proved to be both vexatious and profitless. A proposal for the imposition of town duties was, therefore, again brought before the Council in 1866, but was abandoned in defer-

ence to strong opposition headed by the President, Sir Bartle Frere. It was, however, revived in 1868. The new President, Sir Seymour Fitzgerald, also disliked these duties; but the Municipality was then in urgent need of money and a Bill permitting the levy of town or octroi duties was consequently passed by the Council with the reluctant consent of the Governor. The Bill of 1872 proposed a continuance of these duties. The articles selected for taxation were grain, metals, wines and spirits, beer, sugar, ghi and timber. In the Select Committee it was determined by a majority to add cotton to the schedule of articles liable to the duties. Hence arose the question whether the schedule should contain articles in transit or be limited to articles of local consumption only. The Advocate-General was opposed to the principle of taxing articles of food, but if financial considerations rendered such taxation absolutely necessary, he was of opinion that it should be left to the Corporation to decide what articles should be taxed. In any case he desired a declaration by the Council that the ruthless grasp of the tax-gatherer should no longer be laid upon grain. Oddly enough, in a Council composed mainly of the accredited champions of the taxpayers, this able advocate of a free breakfast table was in a glorious minority of one. But the reason is not far to seek.

Fresh obligations imposed upon the Corporation rendered it necessary to explore new avenues of taxation. One of the symptoms of the general depression which followed the financial crisis of 1865, was a marked slump in Bombay house property. After a lapse of fifty years Bombay has witnessed a repetition of the same phenomenon. The position of owners of landed property in those days was not dissimilar to that of property owners at the present time, except that there was then no

SIR BARTLE FRERE

The Governor who laid the foundations of modern Bombay.

Rent Act to add to their hardships. The prosperity during the course of the American war created a boom in real estate. The sudden cessation of hostilities reduced the market value of properties to a level ruinous to those who had purchased them during the boom. The taxes were by no means excessive, but the returns on the amounts invested were sadly inadequate. Many properties were vacant and the rules for refund of taxes being illiberal, owners were in some cases expected to pay more in the shape of taxes than they actually received as rent. No wonder that the house-owners complained of the 'crushing' burden on real property and clamoured for the transfer of a share of that burden to other shoulders. The principle of indirect taxation was vehemently advocated and by none more effectively than Arthur Crawford. He was of opinion that the best possible method of securing indirect contribution by the mass of the population towards the expenses of the Municipality was the levy of town duties on articles of general consumption. Grain was, therefore, included in the schedule of articles selected for taxation. It was admitted that the canons of political economy forbade the taxing of the necessaries of life, but it was urged that exceptional circumstances justified the disregard of this unimpeachable principle and that it would be very unwise to jettison a legitimate source of income on considerations which were founded rather on sentiment than on hard facts. Even in England, despite the historic crusades of the Anti-Corn Law League, the desideratum of a free breakfast table had not been attained. Tucker contended that one of the recognized principles of taxation of commodities was not that every commodity should be taxed but that duties should be placed on a few selected articles in general use and limited to an amount which would press but lightly on

the individual consumer. This, he claimed, was the principle on which the schedule of dutiable articles had been drawn up, and he added that though the prices of all cereals had diminished since the first imposition of the grain duty, wages had not proportionately decreased, so that the state of the labouring class in Bombay was far better than in other parts of the Presidency. Where the lower classes consumed so few articles, which could be considered luxuries, it was necessary, if indirect taxation was to reach the bulk of the population, to place it on articles of general consumption. The rate in this particular instance had been fixed so low—annas four per candy—and was likely to affect the price of the commodity to the consumer in a degree so infinitesimally small that the imposition of the duty could give no reasonable cause for complaint. These arguments prevailed and to this day grain continues to contribute an appreciable share of the municipal revenue. The duties legalized by the Council were as follows :—

Grain of all sorts	4 annas per candy.
Metals except gold and silver, iron and steel...	1 per cent on tariff value.
Wines and spirits	4 annas per gallon.
Beer	½ anna per gallon.
Sugar	1½ per cent on tariff value.
Ghi	10 annas per Bombay maund.
Timber, excluding railway sleepers ...	1½ per cent on market value.

An amusing plea was put forward by Munguldas Nathoobhoy in favour of exemption of ghi from the duty. 'Medical men could tell the Council,' he affirmed in all seriousness, 'that ghi was absolutely necessary to the healthy existence of the portion of the Hindu community who were vegetarians' and that taxation on such an article 'would lead to great hardships being inflicted upon a very large class of Her Majesty's subjects.' Sharp came the retort from the member in charge of the Bill, 'The Honourable gentleman did not object to the duty on beer, an article of consumption necessary to another important section of Her Majesty's subjects and against taxing which the same arguments might be urged.' 'But,' contended Munguldas, 'the difference is that ghi is not a luxury and beer is.' His Excellency the President now intervened and asked in astonishment: 'Does the honourable gentleman consider that beer and wines and spirits are luxuries only?' 'Yes, in this country they are,' replied Munguldas. To this another member's rejoinder was: 'I looked upon the matter from the opposite point of view.' The President also could not agree with Munguldas and the result of this discussion was that the duty on ghi was enhanced from annas 8 to annas 10 per maund.

Cotton, the chief article of trade of the premier sea-port of India, was another item brought within the clutches of the tax-gatherer, which after a heated debate eventually escaped taxation in circumstances over which the Council had no control. In those days the city boasted of hardly two dozen cotton factories, and the bulk of the cotton arriving in the port was intended for export. The impost would, therefore, have been tantamount to a transit duty detrimental to the natural development of trade. This point had actually been discussed in the Corporation and in the Council more

than once before, as for example in the year 1856, when a Committee of the Bench of Justices was appointed to suggest articles for taxation and men like J. Graham, J. Parsons and John Fleming advocated a small duty on cotton. Again, in the year 1868 when the question of town duties was before the Justices a small duty upon cotton was preferred by an overwhelming majority to an impost on grain, and Government were moved to legislate for its imposition mainly on the ground that the commodity enjoyed municipal protection and the use of roads which it destroyed more quickly than anything else did. Sir Seymour Fitzgerald, however, then pointed out that the proposed duty would become simply and solely a transit duty in its naked form and he resolutely refused to consent to it. Moreover, in their resolution of 14th November 1868, on the subject of municipal taxation the Government of India had specified certain articles upon which town duties or cesses under any name should not be levied by a municipality, and cotton was one of those articles. Nevertheless, on this occasion the Select Committee recommended a duty on cotton of four annas per candy. The Chamber of Commerce thereupon sent a representation pointing out that the levy of any rate on cotton would be a transit duty and inquiring whether it was competent for the Bombay Council to legislate for the imposition of transit duties in any form without the consent of the Government of India. The member in charge of the Bill, however, held that there was no legal restriction on the Council's power to legislate on the subject, though undoubtedly it would have to adduce valid reasons to induce the Government of India to assent to a proposal which was at variance with the opinion they had definitely expressed.

Bythell of Messrs. Gaddum & Co. was the stoutest

opponent of the proposal. To admit that transit duties were a legitimate source of revenue would be to inaugurate a policy fraught with danger to the commerce of the city.

'Bombay without her great transit trade would be nothing but a fishing village,' he urged, 'and cotton is the one great article in which she trades. Without that transit trade, what value would be put on the now enormously valuable house property, and whence would the Municipality receive the large income now realized by taxation? The inflated prices paid for house property during the mania of 1864–65 cannot now of course be obtained, but it is an undisputed fact that the present value is much greater, that the rents now paid are much higher than during any period before the great development took place in the cotton trade of Western India . . . . . The Government of India, knowing how difficult it must be for India to compete with America in cotton cultivation, and how valuable the trade in cotton is to the country, have carefully refrained from imposing any tax upon it and have made it their special care to foster it. Even in the hour of their greatest need, when they had to incur the odium of levying an income tax of $3\frac{1}{8}$ per cent, the Government of India did not propose to lay any burden on cotton. Seeds, oil, grain, spices, indigo, lac are all saddled with an export duty, but cotton nevertheless remains free. What, then, will be said by the country when Bombay for municipal purposes attempts to tax the one article that has at all cost been hitherto exempted?'

How far this solicitude for the trade of Bombay coincided with the interests of the firm to which the honourable member belonged we need not pause to examine. The Cottonopolis of India had reason to be grateful to this English merchant for taking up the cudgels on behalf of its staple article of trade. But alas for the exigencies of imperial policy! Within a few years a grievous fiscal injustice, a barefaced political fraud was perpetrated, in the name of free trade and recognized principles of political economy, on the cotton industry of

India, the only indigenous industry of which India could boast! That, however, is another story. We are not for the present concerned with the history of the cotton import and excise duties. The only object of this digression is to show how the sacred principles on which politicians take their stand to avert even the most insignificant iniquities are conveniently forgotten when other more pressing ends have to be served.

To revert to the discussion in the Council. The Advocate-General said he could hardly think that the speaker was in earnest when he said that the proposed insignificant duty would ruin the cotton trade in Bombay. He considered that the objections of the Government of India to a series of inland transit duties would scarcely apply to a small market due levied at the chief emporium of the trade. Cotton intended for export remained a long time in the city and was protected, and the dealers in it were supplied with many conveniences. It changed hands, and in every operation connected with it yielded profitable occupation to a large class of persons. A duty on it could not, therefore, be classed as an ordinary transit duty.

'Supposing,' he said, 'that the cotton merchants of Bombay do go up to the Governor-General and petition him to expunge this tax on cotton from the schedule, what is likely to ensue? The Viceroy will see before him on one side a body of men rolling in wealth, who stay in handsome houses, who possess fine properties, asking that cotton should be relieved. On the other side the picture will show myriads of poor people, with hardly any clothes upon their backs, and having the appearance of starvation, and these will implore that grain should be set free so that their bellies may be filled. And which of these representations will a wise and beneficent ruler incline to? I hope to heaven that the representatives of the rate-payers will stir themselves to get up a kindred petition for the inhabitants of Bombay and present it to their Viceroy, who will then consider whether or not there is justice in taxing grain.'

The most novel but telling argument in favour of the impost was furnished by Munguldas Nathoobhoy who believed that Indian merchants were in favour of a sligh duty on cotton. 'They consider,' he said, 'a slight tax upon cotton so unobjectionable that in selling cotton they always put so much per candy aside for charitable purposes. Thus they give four annas per candy for the support of *pinjrapoles* ; they give half an anna per candy for the feeding of pigeons, and they had formerly to give a quarter per cent [1] under the Cotton Frauds Suppression Act, which payment has now been reduced to half the amount I have stated by Government.'

The member in charge of the Bill made much capital of those caste-imposed contributions. The Hindu member had told them that oriental ingenuity had discovered a way of making the cotton trade contribute to the support of Hindu charitable institutions and the maintenance of asylums for useless and moribund animals and for the preservation of vermin, and the feeding of pigeons. 'Now,' said he, 'it appears to me far better that this trade should contribute its quota to municipal revenue in return for the numerous advantages it receives than that it should be subjected to irregular exactions of this kind, which, when not paid voluntarily, are enforced by the power of combination which Hindu traders know so well how to exercise.' After this little remained to be said in favour of the duty. His Excellency Sir Philip Wodehouse declared he could not comprehend the justice of a proposal that cotton alone should be totally exempted from taxation and that the Council should raise a revenue from articles of domestic consumption and the necessaries of life such as grain, ghi and sugar. Bythell's amendment was thereupon rejected by a large majority.

[1] It was not a quarter per cent, but four annas per bale of 492 lbs.

But victory rested with him in the end; for while the Viceroy had nothing to say concerning the injustice of taxing grain, a communication reached the Council announcing that His Excellency entertained serious objections to the proposed town duty on cotton. The Government of India considered the tax a transit duty, and such duties had been prohibited in the Municipal Bills for other places in India, because they would be opposed in principle to the policy pursued with regard to independent Native States the rulers of which had been requested to abolish transit duties in their territories. In deference to these views of the superior authority it was decided by His Excellency the Governor in Council to omit the commodity from the schedule of town duties. For forty years from that date no one dared make any suggestion to bring cotton within the grip of the tax-gatherer. In the year 1910, the Bengal Government proposed to levy an excise duty, not exceeding two annas per bale, on raw jute and jute cuttings and rejections exported from the port of Calcutta or consumed in any mill in Bengal, with the object of financing the projected Improvement Trust. This emboldened the Municipal Corporation of Bombay to ask for an export duty on cotton and a powerful representation was accordingly sent on 16th February 1911, to Government, both by the Corporation and by the Bombay Improvement Trust, asking that a special duty of four annas per bale might be levied on all cotton exported from Bombay, for the purpose of supplementing the resources of the Trust to the extent of about Rs. 4,50,000. It was the same story over again. The Bombay Chamber of Commerce entered a vehement protest against the proposal with the result that it was shelved once more and the work of improving the slums of Bombay sustained a serious set-back.

The last triumph of the Chamber was, however,

short-lived. Soon afterwards the Bombay Government embarked on their costly schemes of reclamation and development and turned their eyes in search of the sinews of war to the closely guarded realms of King Cotton. Fortunately for the Corporation, the office of Municipal Commissioner was then held by one of the most unassuming but quick-witted and tactful members of the Civil Service, Mr. P. W. Monie, who seized the opportunity of pointing out to Government how illiberal the assistance rendered by them to the Municipality was by comparison with the aid extended to municipalities in Great Britain, and pressed for a share of the spoil for the prosecution of municipal schemes for the development of the city. No sooner said than done. A Bill was forthwith introduced in the Legislative Council (Bill No. VII of 1920) providing for the amendment of the City of Bombay Municipal Act so as to empower the Corporation to levy a town duty on raw cotton imported into the City of Bombay at the rate of rupee one per bale, the Corporation retaining three-sevenths of the gross revenue derived from such duty and paying the balance to Government. In the statement of objects and reasons it was stated that in view of the serious shortage of housing accommodation in the City and surrounding neighbourhood, it was proposed to appoint a Development Authority which would coördinate the work and assist the local and public authorities in all matters affecting the development of Bombay and adjoining areas, and that the amendment was necessary in order to provide revenue for the scheme.

Extraordinary as the measure was, the reforms and the machinery by which it was proposed to carry the reforms into effect were even more extraordinary. Yet neither the Corporation nor other public bodies were consulted before the Bill was launched. The Governor,

Sir George Lloyd (now Lord Lloyd) therefore considered it necessary to explain personally to the Council the objects and policy underlying the measure and he himself moved the first reading of the Bill, an unusual course though not unprecedented. Taking his stand on the extreme need of housing and improvement of slum conditions in the 'city of dearth and death,' he shrewdly avoided any reference to past controversies on the question of transit duties. No whisper was heard about the violation of the principles of political economy which had been previously regarded by the Government of India as sacrosanct. The Bill was passed without a murmur; the Delhi oracles on this occasion were dumb, thereby offering an apt illustration of the poet's words :

> 'Manners with fortunes, humours turn with climes,
> Tenets with books, and principles with times.'

CHAPTER XXIII

THE INTERREGNUM

THE Act of 1872 was passed as a temporary measure operative for three years, but power was given to the Governor in Council to extend its operation from time to time. Before granting a new lease of life to the Act, Government invited the views of the Town Council on the subject of possible amendments of its provisions. A Committee was appointed to report on the question but it took so long to formulate its recommendations that the term of the operation of the Act had to be spasmodically extended to the end of the year 1877, with such modifications as the experience gained by the Municipality during the previous three years appeared to justify.

The Council prepared a memorandum containing several alterations which the Commissioner, Pedder, forwarded to Government in July 1876 with his own suggestions. The most important constitutional change proposed by the Council was the extension of the franchise. By section 2 of Act II of 1873—an Act passed to amend the original Municipal Act—the franchise was conferred on rate-payers who paid house-rates and police and lighting rates amounting to not less than Rs. 50. Payment of wheel-tax was no qualification. Consequently, the electoral body then consisted of only 3,541 voters, or about 1½ per cent of a population of 645,000. The wealthy owners of real property monopolized the franchise; the most intelligent and useful classes, the mercantile and professional, were largely excluded. It was, therefore, urged by the Council that

the franchise should be extended by lowering the qualification to Rs. 30 and by adding the wheel-tax to the qualifying rate. They calculated that if the franchise were widened as suggested the number of electors would reach the figure of 10,000. They also proposed that Fellows of the University who were, as such, qualified to be members, but had no vote, should be enfranchised and that, instead of giving each candidate one vote only, the voter should be given the option of registering in favour of a candidate as many votes as there were members for his ward.

All these proposals the Commissioner cordially supported, but in an unpublished letter to Government he made some astounding suggestions without the knowledge and against the express wishes of the Council. The Council had proposed that no Municipal executive officer should be a member of the Corporation, whereas Commissioner Pedder recommended that the Municipal Commissioner should be *ex officio* a member of the Corporation, and that the number of members should accordingly be increased from 64 to 65. He also urged that the Commissioner should be *ex officio* Chairman of the Town Council.

The main principle of the Municipal constitution was that the initiative in municipal administration and all executive power should vest in the Commissioner; that the Town Council should possess full knowledge of his proceedings and a general control over them; and that the power of the purse should vest in the Corporation. No more ideal working constitution could have been devised for the requirements of the times, but there was nevertheless a general feeling among the members of the Corporation that it would be well to tighten in some degree the control of the Council over the Commissioner. Pedder would have gladly seen their control

over the general functions of the Commissioner strengthened, if—but not otherwise, it being a very modest if!—the Commissioner was made Chairman of the Council. His reasons for this innocent proposal may be given in his own words :—

'The present system appears to have been devised solely to put a drag on an energetic Commissioner, and it is—*parva componere magnis*—as inconvenient and anomalous as if a British Minister were permitted to attend in Parliament, but not to propose or vote on any measure. The Municipal Commissioner is not obliged, or even entitled, to attend meetings of the Town Council; he might, if he fell out with the Council, absent himself altogether, and things would at once come to a deadlock . . . . The Municipal Commissioner is the only person who can frame in detail important measures requiring the approval of the Town Council or Corporation; as he cannot propose them in the Council, he must privately induce the Chairman or some other member to do so; and if he cannot succeed in this they cannot be proposed at all. I may say that it would have been almost impossible for me to get satisfactorily through the Council a number of measures based on my 'Proposals' of 1873 if it had not happened that I was on intimate terms and living together with Mr. Curry, the first Chairman . . . . The Chairman of the Town Council has to lay before the Corporation the Budget, and similarly it is convenient that he should propose to the Corporation any other measures approved by the Council. He is thus the 'Member in Charge' of any measure, but as he cannot have an intimate knowledge of details, he has to refer to the Commissioner for much of the information required by the Corporation.'

A plausible statement, indeed, albeit in some respects more specious than sound. At this distance of time, however, the arguments have merely an academic interest, and the subsequent history of the Town Council and of the Corporation offers ample evidence that the work of local bodies and committees can be carried on with remarkable success without an official chairman. Even Government, who were in favour of appointing the

Municipal Commissioner to be a member of the Corporation and the Town Council, did not approve of the proposal to elevate him to the position of Chairman of the Council.

The rates were then divided into two classes, the owners' rates and the occupiers' rates, a division which led to considerable difficulties in collection. The number of occupiers who were liable to pay police and lighting rates and from whom those rates should have been demanded by the Municipality, did the owners not find it more convenient to pay them, was far greater than the total number of assessed properties, about 100,000; yet the proportion of occupiers who themselves paid the rates was extremely small and was annually diminishing. In 1873 the number of assessed properties was 21,055, and that of occupiers paying the occupiers' rates 2,838; in 1875 the number of properties rose to 22,445, but that of occupiers paying their own rates fell to 2,003. Nevertheless, the Council was not in favour of making the landlords liable for the payment of all Municipal rates. All they wanted was that in case of default an owner should be entitled to recover from his tenant the occupiers' rates and the halalkhore cess which he had to pay to the Municipality. The Municipal Commissioner, however, proposed the entire abolition of the police and lighting rates and the substitution for them of a tax of the nature of an Income Tax or License Tax. As, however, this proposal did not meet with general approval, he supported an alternative proposal to consolidate owners' and occupiers' rates into a single rate on owners.

The outcome of these representations was the introduction into the Legislative Council, on 14th September 1877, of a Bill to amend the Act of 1872, and to retain the latter in its amended form, but a series of blunders,

committed before the Bill was introduced and became law, led to an interregnum, to which, strangely enough, not a single publication dealing with the history of the Corporation has made any reference.

Both the Corporation and the Town Council were defunct from the latter part of July until 11th September 1877. Between the 10th July and 24th September no meeting of the Corporation could be held and there was a corresponding break in the proceedings of the Town Council. The circumstances that led to the *impasse* may be briefly noted. Act III of 1872 provided that rate-payers in order to qualify themselves as voters at Municipal elections and as members of the Corporation must have paid a sum of at least Rs. 50 for the house rate and police and lighting rates. When the Act was amended by Act II of 1873, the same qualification was laid down for electors, but in the case of members no particular amount was specified, the only stipulation being that the sixty-four members should be rate-payers who had severally paid the house rate and police and lighting rates. This discrepancy was not noticed when Government issued a notification on 30th May 1877, for holding the general elections and specified that rate-payers, in order to qualify themselves as electors and members of the Corporation, should have paid before 31st December 1876, a sum of not less than Rs. 50 for that year's rates.

When the elections were impending, objection was taken to the qualification of a candidate for a seat in the Corporation on the ground that he had not paid the Municipal taxes specified in the amended Act of 1872. Before the date of the amendment, the payment of police and lighting rates to the amount of Rs. 50 had been considered sufficient qualification and the election lists were prepared accordingly, but the argument now raised was

that the rate-payer should have paid house rate as well as the other two imposts. As a matter of fact, the house rate was payable by the owner, and the other rates by the occupier. The Advocate-General was, therefore, asked to suggest a way out of the difficulty, but replied that the payment of all the three rates was 'essential for a qualification.'

The position, in brief, was as follows. Only persons occupying their own houses and those who paid the house assessment under agreement with their landlords were entitled to be on the register; the great majority of persons previously considered eligible was disfranchised both for membership of the Corporation and for the right to vote at elections. The electoral body was, in consequence, reduced to a skeleton. To increase the embarrassment, a further conundrum was pronounced for the entertainment of the Municipal authorities, namely whether, as the law stood, the mere fact of a rate-payer having paid all the necessary rates was not of itself sufficient to entitle him to be elected, or to vote, although his name might not have appeared on the lists prepared by the Commissioner.

The Bombay Government, being apprised of the difficulties, hurriedly issued a notification, dated 18th July 1877, superseding the notice of 30th May, and stating that the qualification for membership was the payment of the house, police and lighting rates for the year 1876, and for voting, the payment of not less than Rs. 50 on account of the same rates. Blunders, like misfortunes, rarely come singly. Another difficulty now arose. The lists of persons qualified to vote and to be elected had already been prepared in accordance with the terms of the notification of 30th May; the larger number of voters so registered had become eligible under the amended notification; the elections had been fixed for 26th

July and there was no time to publish another register. Once more, the Advocate-General was consulted. He advised that it would be futile as the law stood to proceed with the elections and he added, on further examination, that 'both the Corporation and the Town Council were defunct.' Why and how the melancholy event came to pass we have no means of ascertaining either from the Municipal Commissioner's administration report or from the annual proceedings of the Corporation. It may be inferred, however, from the preamble of the resuscitating Act that was shortly afterwards passed that the elections previously held were also invalid and that even if the members constituting the Corporation had been duly elected they would have all ceased to be councillors on 26th July, which was the last day on which fresh elections ought to have been but were not held.

With the advice of the Advocate-General before them it was clear that neither the Corporation nor the Town Council could perform any corporate act. No meetings were held, but payments could not be stopped. By a special authorization from Government the members of the Council continued to sign cheques on the Municipal Fund. A Bill was promptly introduced to grant indemnity for past omissions and commissions and to enable the Corporation to function again, and it was passed by the Legislative Council on 5th September 1877. The preamble of this enactment, Act II of 1877 'to validate the appointment of certain members and for the temporary continuance of the Municipal Corporation of the City of Bombay', ran as follows :

'Whereas doubts have arisen whether the several persons elected and nominated since the passing of the Bombay Municipal Act of 1872, as members of the Municipal Corporation of the City of Bombay and Town Council and as Chairman thereof

respectively, were elected and nominated according to law; and whereas under the provision of the said Act many of such persons if they had been duly elected members of the said Corporation in or subsequently to the year 1875 would on the 26th day of July last have ceased to be such members and fresh elections according to law ought to have been, but were not, held; and whereas it is desirable to render all such elections and nominations as enforced valid, and for the present to postpone such new elections and to provide for the temporary continuance of the said Corporation and Town Council as they purported to be constituted on the 25th day of July last; it is enacted, etc. . . .'

Under the validating act all 'persons elected since the passing of the Municipal Act of 1872' as members of the Municipal Corporation and of the Town Council and as Chairman of the Corporation and Town Council were to be deemed to have been duly elected and to continue to be such members and Chairman, respectively, until the 31st day of December 1877, and until such further date as might be notified by the Governor in Council. All acts done, sanction given, and payments made by the Municipal Commissioner, by the Corporation and Town Council as the Chairman thereof, respectively, since the passing of the Act of 1872, were to be deemed to be of the same force and validity as they would have been if the members of the Corporation and the Town Council had been elected and nominated according to law.

After this serious instance of carelessness, one might have expected the Municipal Commissioner to show more circumspection in matters pertaining to elections. The very next year, however, the legislative machinery had to be set in motion for another validating Bill. The voters' list should have been published on the 1st July 1878, whereas the notice of publication did not appear in the newspapers until the day following. As this irregularity might have been held to invalidate the

list and the elections held in accordance with it, the complacent Government once more came to the rescue of the Commissioner and placed the validity of the list beyond question by hurriedly passing Bill No. 7 of 1878.

CHAPTER XXIV

THE BILL OF 1877

THE principal changes incorporated in the Bill of 1877 may now be examined. In recognition of the need for extending the franchise this new piece of legislation contemplated the lowering of the qualifying rate to Rs. 30. It being impracticable to collect the taxes from the occupiers, the Bill also proposed (1) to abolish the distinction between owner's and occupier's rates; (2) to convert the house, police and lighting rates into one 'consolidated rate'; (3) to make the consolidated rate, as well as the water and halalkhore rates, leviable under the general name of 'Property Rates' from the landlords, giving them the right, in respect of the water rate and halalkhore rate, to recover the same from their tenants; and (4) to provide for the levy of all property rates in a lump sum instead of by separate bills as before.

The chief alterations in the administrative portions of the Act were designed (1) to empower the Town Council to revise assessments; (2) to make provision for indemnifying officers of the Fire Brigade and others acting with them for any acts they might necessarily do whilst employed in saving life or property from fire; and (3) to provide efficiently for preventing the spread in the city of infectious diseases. One very controversial proposal embodied in the Bill was to make the Municipal Commissioner *ex officio* a member of the Corporation. The Select Committee, to whom the Bill was referred, was of opinion that it was not desirable that the Municipal Commissioner should be a member of the Corporation or Town Council, but it suggested at the same time that

he should be entitled to be present at the meetings of both those bodies and to take part in the proceedings without the power of voting.

Another important alteration made by the Select Committee was the provision that cheques for payment in excess of Rs. 100 should be signed by the Municipal Commissioner as well as by a member of the Town Council and Secretary. The Act of 1872 required that no payment out of the Municipal Fund should be made without the sanction of the Town Council and that such payments should in *all* cases be made by cheque. This was in practice impossible. Had the Municipal authorities attempted to comply literally with this provision, work would have come to a standstill. Their bankers would have refused to cash an immense number of cheques for small amounts and the Town Council would not have found it feasible to sanction individually all the payments that had to be made. To obviate the difficulty, payments of sums exceeding Rs. 100 were made by cheque, and small payments were made in cash from the proceeds of cheques for Rs. 1,000 drawn in favour of the cashier, the sanction of the Town Council to such payments being asumed to have been included in their general approval of the Budget. As this practice was not strictly in accordance with the provision of the law, its adoption was legalized by a modification of the section.

It was proposed in the Bill that the Executive Engineer and the Executive Officer of Health should be appointed for an unlimited period. But while agreeing that the term of three years imposed in the original Act was too short, the Select Committee were not prepared to abolish the limit altogether, and therefore extended it to five years.

The Town Council had asked and the Bill had

provided that the Council should have the power to dispose of complaints and revise assessments. The Select Committee, however, did not consider that that was a duty which could or should be performed by the members of the Town Council.

After the Select Committee had submitted its report a few supplementary amendments were submitted by the Town Council over the signature of their Chairman, James MacLean, on 9th December 1877. Although they were time-barred, an informal meeting of the Select Committee was convened by the President of the Council and the additional recommendations were very carefully considered. Some of the alterations were adopted, others were accepted in a modified form, and some were rejected.

One of these supplementary proposals raised the interesting issue whether the Commissioner of Police should be eligible for membership of the Corporation and the Town Council. The Town Council urged that the holder of this office should be disqualified from being a councillor, but gave no reasons for its opinion. Their object was, however, disclosed in a minute appended to their memorandum by Navroji Fardunji who was a member of the Town Council and appeared to have fathered nearly all the proposals. As already noticed, the Police Commissioner was no longer directly under the authority of the Municipal Commissioner. But, the veteran tribune of the people argued, he was 'undoubtedly a Municipal executive officer and servant of the Corporation paid out of the Municipal Fund,' and, as such, ought to be disqualified for election or nomination as a member of the Corporation. This reasoning, however, did not convince the majority of the Select Committee. They held, as also did Government, that a Police Commissioner was not a Municipal servant

within the meaning of the Act. If, however, he was a servant of the Municipality, he was already ineligible for a seat in the Corporation, and, said the President of the Council, anyone who had any objection to the Police Commissioner sitting there could 'take the matter into Her Majesty's High Court.' He pointed out that every Commissioner of Police had not been, *ipso facto*, a member of the Corporation, merely because he was a Commissioner of Police. It was only very lately, he believed, that Sir Frank Souter had been placed in that position, and he found that the majority of the gentlemen interested in the matter were of opinion that his presence in the Town Council was often very useful, because he was able to give more detailed information about portions of the City than any other official. The Honourable Mr. Rogay took up the cudgels on behalf of the Town Council and argued that all the information possessed by the Police Commissioner could be obtained through the Municipal Commissioner. The proposal, was, however, negatived, and from that day the Commissioner of Police has invariably been a member of the Corporation and of the Standing Committee and has unquestionably been a very useful member of the latter body. For instance, no one was more welcome to the civic chamber than S. M. Edwardes, who had been for several years the Commissioner of Police before he was appointed to be Municipal Commissioner. There is no doubt that if the proposal were revived to-day, the same reasons would be urged in favour of retaining the Police Commissioner on the Committee as were given in the case of Sir Frank Souter, who was appointed Chairman of the Town Council as well as of the Corporation, and whose marble bust in the civic chamber offers eloquent testimony to the services he rendered to the Corporation.

The Town Council also advocated the omission of

a section which exempted public buildings from taxation. Two questions were involved : (1) whether the Legislative Council had power to make the properties of the Crown liable to the payment of Municipal rates and taxes ; and (2) whether the Council had at that stage the power to consider any proposition to amend the Bill before it by adding a clause affecting the Presidency revenues. As regards the first point, Naoroji Fardunji had cited in his minutes the opinion of no less an authority than the Advocate-General to the effect that Government properties could be taxed The Honourable and learned member of the Council said he was not in the least disposed to recede from that opinion, but pointed out that the powers of the Council were controlled by Section 38 of the Indian Councils Act of 1861, which laid down that it was not lawful for any member or additional member to introduce, without the previous sanction of the Governor, any measure affecting the public revenues of the Presidency, or by which any charge should be imposed on the revenue. It was clear, therefore, that a proposal to make Government buildings assessable to Municipal rates could not be placed before the Council at that stage. Government properties thus remained exempt from taxation, but in accordance with a separate arrangement previously made, Government continued to contribute a compounded sum in lieu of the property taxes, until the Act of 1888 legalized specific arrangements for the assessment of such properties.

A brief reference may be made to another interesting point, to which the President of the Council called attention—a point which has not been clearly grasped even up to the present time and has apparently led to many anomalies in the system of allowing drawback in lieu of refund of property taxes. The principal Act provided that in the case of any *chawl* or building, let for hire in

single rooms, either as lodgings or godowns[1] for the storage of goods, the house rate should be levied in respect of the assessment of the rent on each floor, and that the owner should be entitled to a remission of one-fourth part of the annual house rate, provided that the owner of such *chawl* or building applied for the remission within fourteen days after the first day of January or the first day of July, and furnished all particulars of the situation of any such *chawl* or building, the number of the rooms and godowns therein, and the names of the occupiers thereof. The Town Council sought an amendment of this provision so as to require the owner concerned to apply for remission on the first day of January or the first day of July 'on account of the half-year then commenced.' It also asked for the insertion of a proviso that the owner of a room in any *chawl* or building, where work was done or where goods were sold, could not claim any remission.

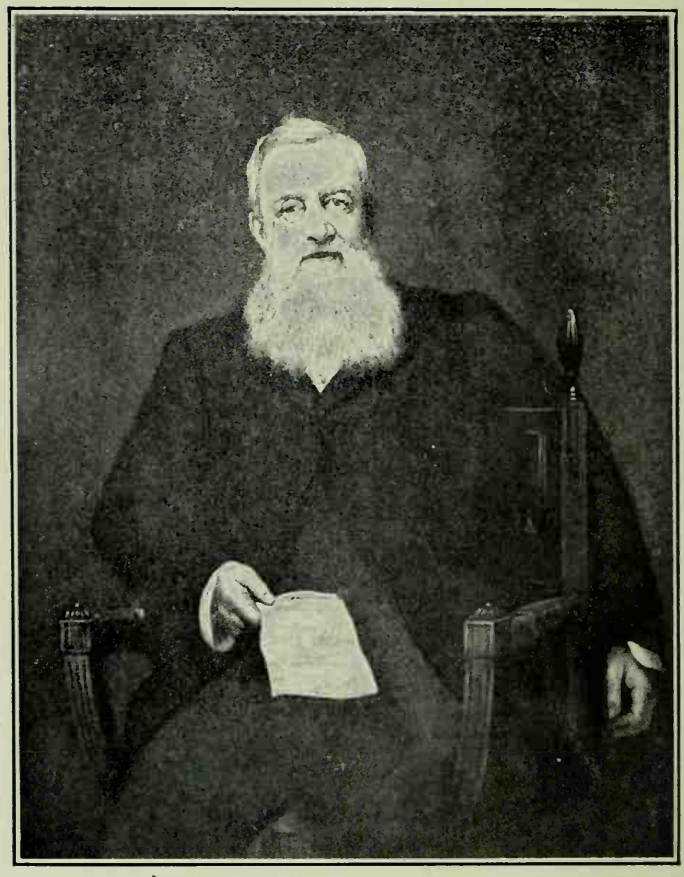
Referring to this provision the President made certain observations which indicate the object and nature of this composition.

'The purport of Sections 76 and 82,' he said, 'was carefully considered by the Select Committee, and it was found that in cases where persons let out chawls in single rooms, and where a good many rooms were vacant from time to time, the shorter plan had been followed whereby instead of the owner giving notice and obtaining a refund, one-fourth of the regular assessment should be abated *at once* in satisfaction of all such claims. Section 82 of the Act gave power to make refunds in cases where parts of houses or *chawls* were let off, and some portions were empty; but it was not intended that owners should obtain abatements by both these means, by *compounding*, as it were, and afterwards getting the refund.'

The same principle runs through the provisions of the Act of 1888. If a property is let to two or more persons

[1] From the Malay word *gadong*, a warehouse, storehouse, or depository.

in separate occupancy, the Commisioner may either treat the whole of it as one property or with the written consent of the owner treat each several holding or any two or more of the holdings or each floor or flat as a separate property. But once he decides to treat the holdings as one property, he must allow drawback of one-fifth part of the General Tax subject to general conditions prescribed by the Standing Committee. The general conditions are, however, so framed as to involve an investigation of particulars concerning the extent and duration of previous vacancies, entailing all the labour to the municipal staff and all the inconvenience and annoyance to the owners which the sort of composition contemplated by the Act was intended to obviate. Herein the Municipal executive as well as the Standing Committee have lost sight of the fact that the system of composition incorporated in the Act is taken from the Municipal Corporations Act of England under which the owner of a building containing small tenements compounded and paid to the local authority the rates of his tenants and obtained an abatement of 15 per cent and a further 15 per cent if he agreed to pay rates for a year, whether his rateable hereditaments were occupied or not. The drawback rules of the Bombay Municipality are a travesty of the system contemplated by the Legislature and it is strange that deterred by a judgment of the High Court given under a previous enactment in a case involving other issues the rate-payers have hitherto acquiesced in such rules.



LORD RIPON

The Father of Local Self-Government in India

CHAPTER XXV

LORD RIPON'S BENEDICTION AND BOMBAY CASTLE'S HESITATION

Hardly was the ink dry on the notification heralding the Consolidating Acts of 1872 and 1878 than the Town Council commenced suggesting alterations in its provisions. By the middle of the year 1880 a long list of amendments had been prepared, and in the month of October of the same year, the Municipal Commissioner submitted a codified statement of such emendations for the consideration of the Corporation.

Most of the amendments pertained to the domain of administration. The only proposal for a change in the constitution was to give the Fellows of the Bombay University the right to elect four representatives and accordingly to increase the number of the Corporation to 68. A Committee appointed to consider the amendments saw no special grounds for extending the franchise to the Fellows, as such, inasmuch as they already exercised the privilege of voting, either as rate-payers or as Justices.

While these proposals were in the melting pot, Lord Ripon issued his memorable resolution of 1882, which gave a fresh impetus to local self-government throughout India. The advanced policy inaugurated by the resolution aimed not only at broadening the foundations of local government, but also indicated the desirablity and feasibility of several local and administrative reforms in all provinces, and definitely laid down general principles for the decentralization of provincial finance for local government by the readjustment of certain items of revenue and expenditure. The revenue

items comprised tobacco duties and liquor licenses, and the expenditure items primary education, medical relief and police charges.

The Bombay Corporation hailed the resolution with delight and forthwith opened negotiations with the Government of Bombay as to the best ways and means of transferring provincial receipts and burdens. At a special general meeting, held on 10th January 1883, the following proposition, moved by Vishwanath Narayen Mandlik and seconded by Pherozeshah Mehta, was passed:—

> ' This Corporation humbly offers its respectful thanks to His Excellency the Viceroy for his noble efforts to systematize and properly direct the measures for the extension and consolidation of local self-government in India, and expresses the earnest hope that in the Bills now under consideration the Municipal Laws of Bombay, passed by the Governments of Sir Seymour Fitzgerald and Sir Philip Wodehouse, may be further amended by investing the representatives of the City with a larger and more substantial share in the administration of their own affairs.'

In reply the Corporation were informed that His Excellency the Governor had received with much satisfaction the expression of confidence from ' a body which had shown itself so capable of appreciating and of adequately discharging the responsibilities of local self-government.' Beyond this formal exchange of compliments, however, the Bombay Government did little to further the object which Lord Ripon had in view. Of all provincial governments it was the least enamoured of the policy enunciated in the Government of India resolution. The Corporation on the other hand were determined not to allow the grass to grow under their feet, while ' Bombay Castle ' was preparing for a campaign of flank attacks on the proposed measures of reform.

In a resolution passed on 10th January 1883 the Corporation expressed the earnest hope that the local government would move the Legislature at an early date to take steps to relieve the Municipality from any payment on account of police charges, as contemplated by the resolution of the Government of India, and on 17th January 1883, a Committee of the Corporation was appointed, to report what amendments in the Act were desirable in connexion with the 'new Local Self-Government scheme.' In the following month a letter was received from Government, stating that they proposed to relieve the Municipality of the charges on account of the Bombay City Police and to effect some arrangement by which the burdens which then devolved on Provincial Revenues to an amount equivalent to the cost to the Municipality of the Police (Rs. 300,000), should be borne by Municipal Funds, or to make an equitable settlement in some other way. One solution of the question was that in return for being relieved of the police charges the Municipality should abandon its claim to the fixed payment of Rs. 1,43,750 on account of Liquor Licenses and of Rs. 1,46,000 on account of tobacco duty. An alternative course was the transference to the Municipality of the maintenance of certain medical and educational institutions and of the roads, gardens and other public works maintained at the cost of Provincial Revenues.

On the 2nd March 1883, the Town Council appointed a sub-committee , to confer with the Municipal Commissioner and report to the Council as to the probable amount of the different charges that would be entailed on the Municipality by the transfer to it of the various items of expenditure.' The sub-committee promptly presented a report which was considered at a meeting of the Town Council on the 4th May 1883. The report

showed that the Police charges amounted to Rs. 2,87,732 and that the Municipal receipts from Tobacco Duty and Liquor Licenses amounted to Rs. 2,89,670. The Town Council recommended that in consideration of being relieved of the expenditure on Police and their contribution of Rs. 30,000 towards the expenses of the Goculdas Tejpal Hospital (Rs. 3,17,732), the Municipality should forego the income from Tobacco Duty and Liquor Licenses and shoulder the charges on account of the Government Middle and Primary Schools and certain Public Works expenditure amounting to Rs. 27,813.

Considerable discussion ensued in the Corporation on the subject. Several proposals were made, but the amendment moved at a meeting held on 16th May 1883, by Vishwanath Mandlik, seconded by Javerilal Yajnik, expressed more forcibly than any other the sentiments of practically the whole body. It ran as follows:—

'That the Corporation regrets that it is unable to accept the scheme of local self-government proposed by Government . . . . inasmuch as by the operation of that scheme the Municipality would in no way be benefited financially or educationally, or in matters of municipal administration generally. The Corporation, therefore, respectfully trusts that Government will be pleased to issue a modified scheme, conceding to the Corporation larger and more extensive powers of local self-government as intended by the order of the Government of India.

This amendment, however, was not adopted by the House. While it expressed emphatically the dissatisfaction of the Corporation at the niggardly policy and obstructive attitude of Government, it suggested no means of promoting the object in view. No one wanted a deadlock; every one was anxious that some means should be devised to carry into effect the beneficent policy of Lord Ripon. The question, however, required

patient consideration. Kashinath Telang, therefore, proposed, and the House acquiesced in, the appointment of a Committee of the Corporation 'to consider and report what department of administration the Municipality should ask Government to hand over to it for management and how the various outstanding claims of the Municipality against Government should be now settled.' The Committee was also asked to report what amendments of the Municipal Acts were desirable in connexion with the new scheme.

It was a strong and representative Committee—a Committee of all the talents, such an unique combination of able and experienced men as rarely falls to the lot of a city to enlist simultaneously in its service. Blaney and Peterson, Navroji Fardunji and Mandlik, Telang and Tyebjee, Mehta and Sayani, Geary and Grant and Yajnik were names to conjure with in those days. The Corporation have never again been able to provide such an assemblage of stalwarts. The Committee submitted its report on 11th August 1883, recommending the deprovincialization of various items of provincial expenditure.

In coming to a decision the Committee was guided by two main considerations. As regards any such transfer it was, in its opinion, extremely desirable that the Municipality should endeavour to get the control, not of parts here and parts there of heads of expenditure, the balances of which were left to be administered by the officers of Government, but, so far as other considerations did not render it inadvisable, of the whole of such heads of expenditure as might recommend themselves as most suitable for transfer. The transfer, observed the Committee, was of the nature of an experiment, and the results of the experiments would be keenly scrutinized. Its ultimate success was by no means doubtful, but the

Committee believed that it would be in the interests of the Corporation to set up, by the successful administration of less than might fairly be asked for, such a claim for larger concessions in the future as Government might be able to admit, rather than by overhaste in the beginning to strain such administrative appliances as the Corporation then possessed, or could readily improvise, and so possibly to prejudice at the outset the success of the movement. So also, on the other hand, the Committee submitted that it was in the interests of the State generally that, so far as possible, the two sets of administrative machinery—that of the Government and that of the Municipality—should not be left in control of different parts of one head of expenditure. Such an arrangement must involve a great deal of unnecessary expense to the tax-payer, and constant friction between the two sets of authorities, which it would require much good sense and forbearance on both sides to render innocuous. After careful consideration the Committee recommended the Corporation to ask for the control of the following institutions :—

(1) The Goculdas Tejpal Hospital.

(2) Five Anglo-Vernacular Schools.

(3) Primary Schools.

(4) Aid to Indigenous Schools.

(5) Victoria and Albert Museum.

(6) Statues of the Queen Empress and of Marquis Wellesley and Marquis Cornwallis.

(7) Chowpatty Gardens, Garden near the Queen Empress's Statue, Garden round the University Buildings.

(8) The Esplanade Estate as formerly administered by the Esplanade Fee Fund Committee.

(9) The conduct and management of the Department for the issue and control of liquor licenses within the City.

(10) Public Land Conveyance Licensing, including issue of number plates and badges.

As regards the Police charges, the Committee submitted that the duty of maintaining order was the first function of Government and that the sum required should, like the cost of the army, be provided by Government out of the general revenues. They recommended that Government should be asked to include the whole of the sum then levied from the Corporation for the Police in the additional revenue which the Local Government had been invited by the Government of India to make in view of the large additions that had been or were to be made to Provincial Funds, the Corporation in its turn undertaking to relieve Municipal tax-payers of the Police rate. The Committee further advised the Corporation to prefer several outstanding claims against Government in respect of assessment of Government property, Water rates, Liquor License Fees, and balances of License Fees in respect of Land Conveyances. Geary and Grant dissented in regard to Police Charges and outstanding claims, but after prolonged discussion almost all the recommendations of the Committee were accepted.

The demands of the Corporation did not err on the side of modesty. Not even its most sanguine members could have expected the acquiescence of Government in the proposed arrangement. The reply received from them was, however, more disappointing than the pessimists among them had expected. In their letter of 9th January 1885, Government did not attempt to disguise their annoyance and indignation at the 'discussion of subjects which were not referred to the Municipality.' The Governor in Council was unable to regard some of those subjects as being open to discussion at all and he did not think that the others could with advantage be discussed in connexion with the question which the Corporation were asked to consider, namely, the

incidence and adjustment of Police Charges. It was obvious that that question was entirely distinct from that of transferring the control of expenditure of a specially local character together with receipts sufficient to meet it. That was a subject which His Excellency in Council was not unwilling to consider separately, but it was not essential to that of the incidence of the Police expenditure. He declined to reopen former accounts, either as regards the outstanding claims in respect of assessment of Government properties, or as regards the contributions towards the cost of the Police and the compensation for the loss of fees for liquor licenses. The arrangements of which the Corporation complained were either based on contract or carried out in exercise of powers given to Government by the law.

Among the institutions which the Corporation desired to take over was the Goculdas Tejpal Hospital. It was, however, one of the conditions attached by Goculdas Tejpal to his donation that the hospital should be 'maintained by Government and the Municipality for ever.' If Government divested themselves wholly of the management of the hospital and made it over for maintenance exclusively to the Municipality, legal difficulties might arise. The Governor in Council, therefore, thought that the best course would be for Government to retain the management in their own hands, receiving, as before, a contribution from the Municipality.

It appeared to be quite impossible to discover charges suitable for transfer to the Municipality which would be equal in amount to the Police Charges, for which the Municipality was responsible. Government were desirous of carrying out the wishes of the Supreme Government, but they thought that if an adjustment of charges was found to be impracticable, there would not

be any anomaly in continuing the state of things that existed, or at any rate in requiring the Municipality to continue to pay so much of the charge as was in excess of other charges transferred to it.

With a leader like Pherozesha Mehta in the chair, the Corporation were not in a mood to acquiesce in this attitude of *non possumus*. A Committee was appointed to suggest within a fortnight the lines on which the communication received from Government should be dealt with. Its report was a forcible yet dignified exposure of the specious arguments urged in defence of the obstructive attitude of Government. In the course of the report the Corporation informed Government that they were still respectfully of opinion that when administrative and financial questions were under consideration, as they then were, it was desirable that they should be dealt with not piecemeal, but as a whole, and that a final settlement should be arrived at, so as to leave as few as possible of such questions still outstanding as matters for further controversy and correspondence. In their letter Government had called attention to a sentence in the Supreme Government's letter of 10th October 1881, which, it appeared to them, the Corporation had overlooked. That sentence ran as follows:—

'The Governor-General in Council would, therefore, be glad to see Municipal bodies relieved altogether of the charge for Police, an equal amount of expenditure on education, medical charity, and, if possible, public works of local interest, being transferred to them with as full control as may be practicably expedient over the details of such expenditure.'

The Corporation submitted that they had not lost sight of this passage, but that they had also in mind further passages in the despatches received from the Government of India, which the Government of Bombay

appeared to have conveniently overlooked. One of these despatches stated:

'The only function which the Municipalities discharge in regard to Police is the provision of funds for the purpose of meeting the whole or a portion of the cost of the Municipal Police Force. They practically exercise no control over the Police and cannot therefore be expected to take any special interest in the efficiency of the Force, or to look with sympathy on a provision of the law which treats them as a machinery for raising taxes to be spent on a department over which they have no control, and in the efficient and economical expenditure of which they have but little direct interest and not immediate responsibility.'

Another passage which, it appeared to the Corporation, had escaped the notice of the Governor in Council was paragraph II of the Resolution of the Government of India No. 3353 of 30th September 1881, quoted, elucidated and reaffirmed in the Government of India's memorable resolution of 1882. The Supreme Government distinctly suggested in that paragraph that 'the Provincial Governments, while being now largely endowed from Imperial sources, may well in their turn hand over to Local Self-Government considerable revenues, at present kept in their own hands, but similar in kind to many which have long been "locally" managed with success by Committees.' Taking their stand on this express desire of the Government of India, the Corporation maintained that in adjusting matters between Government and the Municipality, even as regards the Police expenditure alone, and still more so in examining the mutual position of Government and the Municipality as a whole, Government might justly consider that when some institutions were transferred to the Municipality for management, a part of the Police expenditure at all events should be removed from among the Municipal

burdens. As, however, the only basis upon which the Governor in Council was prepared to consent to release the Municipality from the burden of the local Police charges was that the Corporation should undertake other charges to an amount fully equivalent to that then expended on the Police, or, as an alternative, surrender to Government municipal revenue of an equivalent amount, the Corporation, in preference to surrendering their right to the special local duty on tobacco and snuff, and the revenue from liquor licenses, desired that the arrangements which then subsisted should continue. Thus did one of the principal objects of the liberal policy enunciated by the Government of India remain unfulfilled, and the question of the Police charges continued to remain a fruitful source of friction between the Municipality and the local Government.

While the question of transfer of revenues and liabilities was engaging the attention of that able Committee of the Corporation, two other Committees appointed respectively on 17th January and 9th April 1883, were busy formulating such amendments in the Municipal Act as were considered desirable in connexion with the new Local Self-Government scheme. Joint meetings were held by these Committees and a joint report was submitted by them, dated 7th August 1883. Their work was considerably lightened by the draft Municipal Act, which the Commissioner, Charles Ollivant, had prepared. He was specially placed on deputation for three months to do this work, and to assist him in the transaction of ordinary business, a Deputy Commissioner was appointed. This was the first occasion on which a Deputy Commissioner had been appointed and the officer selected for the post was H. A. Acworth, who subsequently succeeded Ollivant. 'Without binding themselves to every detail,' the Committees recommended Ollivant's

draft as a fair model for the amending Act. The following main issues were considered by the Committees :—

1. Whether it was desirable to alter, to any material extent, that portion of the Municipal Law which related to the constitution and functions of the Corporation and the Town Council ;

2. Whether the Commissioner should be appointed by Government or by the Corporation ; and

3. Whether it would be in the interests of the City that the Town Council should become an executive, in supersession of, or in conjunction with, the Municipal Commissioner.

As regards the first issue, the Committees recommended that in view of the growth of the population, the number of members of the Corporation should be increased from 64 to 72 to be elected or nominated as follows :—

36	Elected	by	the Ratepayers.
24	do.	do.	Justices.
2	do.	do.	Fellows of the University.
2	do.	do.	Chamber of Commerce.
8	Nominated	by	Government.

They were of opinion that irrespective of the payment of taxes, graduates of the Bombay University and other Universities of India and of the Universities of the United Kingdom, and all barristers, advocates, solicitors, vakils and pleaders of the High Court should be enfranchised and that with a view to protecting the interests of the minorities the cumulative system of voting, which had been tried with success in the case of the School Board elections in England, should be adopted.

Concerning the powers and functions of the Corporation and the Town Council the Committees recommended that the powers of control vested in these two bodies should in no way be lessened, but rejected the suggestion

to entrust executive work to the Town Council. It had been suggested that the Commissioner should be the Chairman of the Town Council and that the Council should be the executive authority of the Corporation, each of the members sharing with the Commissioner the responsibility for all acts of executive authority. The Committees disapproved of this proposal for reasons which had best be stated in their own words :—

'Unless there was an entire change of organization, the general body of the Council could not of itself actually carry on the administrative work of the City, which required constant attention, great energy and special aptitude. At best the Council would only meet once or twice a week to discuss the sanction of the Commissioner's actions and in all cases where urgency was pleaded they would be obliged to agree to the action taken by him, and to share in the full responsibility for the same, although they might disapprove of what had been done. Practically, he must still have executive authority ; the Council's power would be only nominal. The express power for which the Council exists is that of " securing the due administration of the Municipal Fund " and the Committee do not see how the Council could perform that function if they were bound by all the actions of the Commissioner. '

They considered that the Commissioner should remain the chief executive officer and that his appointment should remain in the gift of Government. They strongly opposed his appointment as Chairman of the Town Council which, they urged, should have the right to elect its own Chairman.

An interesting minute of dissent was, however, appended to the Committees' report by Jhaverilal Yajnik. He was of opinion that under the new scheme of local self-government the sub-committees of the Town Council should be made ' more of administrative or working bodies ' than they were. Ollivant's draft provided for the formation of permanent Standing Committees on the lines of the

London County Council Committees, and Yajnik supported the proposal. It was, in his opinion, all the more necessary, seeing that the Committees had negatived the proposal to make the Town Council an executive body in supersession of, or in conjunction with, the Municipal Commissioner. Apart from the utility of such Committees, he emphasized the insight into the executive administration of the Municipality which the proposed division of labour would afford to members. The revenues of the Bombay Municipality, he observed, were equal to those of a good-sized district in the Bombay Presidency, and the part taken by its members in their administration would be by far the best preparation for higher administrative work. In Dr. Peterson, Yajnik found an able supporter, but they were in a hopeless minority. After prolonged discussion, the Corporation endorsed the recommendations of the Committees and the draft amended sections of the Act were forwarded to Government with the expression of opinion that they constituted 'a fair model on which an Amendment Act may be based.'

On the 21st October 1885, an Amending Bill, drafted by the Legal Remembrancer to Government, was forwarded to the Corporation. The Bill had to be submitted to the Secretary of State for India. The Corporation were therefore told that if it was to be passed that cold season, it was desirable that their views should be submitted to Government at once.

Another Committee was appointed and its report was laid before the Corporation on 29th January 1886. The Committee observed that the draft Bill had been drawn on lines widely divergent from those recommended by the Corporation after prolonged and careful deliberation. It considered that the principles contained in the previous letter of the Corporation to Government were 'sound in theory and carefully and cautiously founded on the results

of their working ever since the formation of the present Municipal Constitution.' As a result the Corporation virtually reiterated their previous recommendations.

No reply having been received to this communication, the Corporation decided on the 5th July 1886 to send a reminder to Government. The following resolution was passed:—

'That in view of the protracted delay there has been in the passing of the Amended Municipal Bill, the Chairman be requested to ask Government to favour the Corporation with copies of the Bill, as now amended, at as early a date as possible, in order that members may have an opportunity of making any representations on the sanitary and other provisions of the Bill generally, between this time and November next, when it is understood the Legislative Council will have the Bill before them, and in order to save much valuable time, by placing the measure before the Legislature in such a form as will ensure its having the concurrence of the Municipality.'

Government, however, indignantly repudiated the charge of procrastination and told the Corporation that they were themselves responsible for the delay. Although the Bill as originally drafted had been sent to them in October 1885, they had delayed their report and had asked for further amendments necessitating the recasting of the draft. In accordance with the usual practice Government proposed to submit the revised draft to the Secretary of State for sanction and to publish it after that sanction had been obtained. The Corporation or any individual members of that body wouldt hen have every opportunity of expressing an opinion on its provisions.

The revised Bill (No. 4 of 1887) at last came up for discussion on 9th June 1887. It was denounced by the Corporation and the public with one voice as the most retrograde measure ever brought forward by the Bombay Government. According to this new piece of legislation

the first most important authority in civic affairs was the Commissioner, next but far below him, was the Standing Committee and last, the Corporation, whose duty it was to vote funds and stand aloof ! To tear this new-fangled measure into pieces the Corporation resolved themselves into a Committee of the whole house.

CHAPTER XXVI

FIGHT FOR THE SUPREMACY OF THE CORPORATION

BEFORE the Committee could complete its vivisection of the Bill it was introduced in the Legislative Council on 16th July 1887. The Hon'ble Mr. Naylor, who stood sponsor to the Bill, explained that the object aimed at was the perfection of municipal government, the attainment in the highest possible degree of those conditions which secured to the inhabitants of the City health, convenience and comfort, and which would enable the City to maintain its place among the finest cities of the world without imposing upon the people undue taxation. 'The object kept in view in every chapter,' he said, 'is to secure to the citizens of Bombay the greatest possible efficiency in municipal services with the most complete possible control over expenditure.' Replying to the critics who condemned the Bill as a retrograde measure, he urged that great care had been taken in framing Chapter II which dealt with the question of the constitution of the municipality. With a view to assimilating the English models he had provided for the distribution of the work of the Town Council among sub-committees of the Council. Each of these sub-committees, with the Municipal Commissioner as Chairman, was to have charge of one or more branches of the executive work of the Municipality.

'This view,' he said, 'commended itself to me as being an important step in the direction of real self-government and the first draft of the Bill was devised to give effect to it. The draft proposed to deprive the Commissioner of the sole executive authority, and to vest such authority in sub-committees of the

Town Council, of which the Commissioner would be the Chairman. The draft was referred by Government to the Corporation for the favour of their opinion, but that body disapproved of the proposed change. Government did not press the new departure, when those, in whose interest it was suggested, were unwilling to accept it, and the Bill had therefore to be entirely recast . . . . It appears that there does not exist in Bombay the class of gentlemen upon whom Municipal Institutions in England so greatly depend —gentlemen who are both able and willing to devote a considerable share of their time and attention, without remuneration, or for comparatively little remuneration, to local public affairs, and to incur the responsibility which participation in the conduct of such affairs necessarily involves.'

The principal reason, however, why the proposal for the constitution of executive committees fell to the ground was the provision to instal the Commissioner in the presidential chair. In an official-ridden country like India the proposal to keep the sub-committees in the leading-strings of the Commissioner was even in those early days like the proverbial red rag to a bull. Stripped of that obnoxious feature, the proposed sub-committees would not have been so unwelcome to the Corporation. To divest the chief executive officer of his responsibility and to invest him with presidential power and pomp was a travesty of the principles on which Lord Ripon's scheme of liberalizing the municipal constitution was based. Telang, who followed Naylor, therefore, struck the right note when he said that the proposed sub-committees would have either proved obstructive or a 'perfect sham and delusion, preventing responsibility being imposed upon the person on whom it ought properly to rest.' 'It seems to me,' he observed, 'that no sufficient reason has been shown, and none can be shown, why the position of the Municipal Commissioner in the Corporation should be altered from what it is at present. The true principle which ought to guide us is that the

KASHINATH TRIMBAK TELANG

One of the most cultured councillors of Bombay

Municipal Commissioner should be merely the head of the Municipal executive. It will not do to make him an integral member of that body.'

It is well-known that Naylor was assisted in his work by Ollivant. From the standpoint of the Municipal Commissioner, the proposed reform was ideal, but what was meat for him was poison for the Corporation. For instance, the Bill provided that the Municipal Commissioner should be one of the sixteen members of the Corporation appointed by Government. Nothing could have been more subversive of the Municipal constitution than that. Another provision of the Bill bore the clear impress of the Commissioner's finger. Section 379 provided that whenever the Commissioner chose to certify to the presiding authority that a particular item of business should be given priority, it should be forthwith considered. Telang said it was tantamount to want of confidence in the Corporation and an unlimited trust in the Commissioner. It was like 'Lord Protector Cromwell sending about their business the Commons of Great Britain!' 'Local Government is a sham,' said the intrepid critic, 'if no trust is reposed either in the Corporation or in the Town Council. If popular Government cannot be trusted to cope with all the necessities of that pre-eminent position, let us abolish the Municipality altogether and let us have a strong administration and rule by means of the Governor in Council.'

Such an imputation of reactionary tendencies provoked a spirited rejoinder from the President of the Council, Lord Reay. He had come to Bombay with the reputation of being 'a philosophical Radical of pronounced type.'[1] 'The honourable member cannot accuse Government,' he said, 'of having, in the initial stages

[1] Wacha, *Bombay Municipal Government.*

of this reform, shown a retrograde disposition. Quite the contrary has been proved. Government was so progressive that the Corporation was not prepared to follow it. I am not contending that the diffidence of the Corporation was unwise. But our original offer should guarantee us from any taunt that we are imbued with retrograde proclivities.' He took decided objection to that portion of Telang's speech, in which he implied that the Corporation should be an omnipotent assembly and the ultimate master of the destinies of the city of Bombay.

'I do not see,' he pertinently remarked, 'why an assembly should be omnipotent, and I think it undesirable for the same reasons that omnipotence of individuals is to be deprecated. It is certainly contrary to the genius of the constitution of Great Britain; and in those countries where local self-government has reached its highest pitch of perfection—in the Low Countries—after centuries of experience a careful series of checks has been designed to prevent abuses. The Municipal Council checks the executive in town and village and the Council itself it checked by representatives of the districts or as we should call them collectorates. The Central Government has a further residuary control.'

The Bill was then referred to a Select Committee on which Telang and Mehta represented the Corporation. It made a lengthy report on 11th January 1888, elucidating several important changes it had made in the Bill to meet the wishes of the Corporation and the public. The provision that the Commissioner should be *ex officio* a member of the Corporation [1] was deleted. He had not

[1] The Select Committee had decided to use the term 'The Municipal Council of the City of Bombay' for the Corporation and the term 'councillor' for each member. These designations coincided with those of similar bodies and of the members of such bodies in other parts of the British Empire and the Committee considered them convenient and appropriate. In the Council, however, the old name was adhered to, but the designation 'Standing Committee' suggested by the Select Committee for the old 'Town Council' was accepted.

been a member before, and while on the one hand objections of principle had rightly been raised to the proposal, the Committee saw no strong reason, from considerations of utility, for conferring on him the right of voting and other privileges of full membership. The Committee was, however, unanimously of opinion that he should be at liberty to attend the meetings of the Corporation and take part in the discussions. The majority of the Committee suggested that it be held the function of the Commissioner, when present at a meeting, to place before the meeting, at the close of any speech of a councillor, 'correct information as to any material fact referred to in such speech' and to explain 'any matter which appears to him not to have been correctly stated to the meeting.' It was also considered advantageous to the Corporation that in certain cases an exception should be permitted to the rule which prevented him from moving any resolution at their meetings, and that in special cases the Standing Committee should be able to authorize him to take charge of a proposition which had to be moved in the Council.

The Corporation had suggested that each voter should have only one vote but the Committee were inclined to think that the system of cumulative voting, which the Corporation themselves had proposed in 1884, should be given a fair trial.

The Committee conceded to the Corporation the unfettered right of regulating their proceedings at their meetings, and the obnoxious provision requiring the approval of Government to the regulations framed by the Corporation was deleted.

Without assigning any reason the Corporation had proposed that the provision authorizing payment of fees to members of the Standing Committee should be abandoned. Fees were paid from the beginning to members of

the Town Council, and it was believed that payment had secured prompt attendance and prompt discharge of the several administrative duties devolving upon the Council. The Committee, therefore, retained the provision.

The Committee was in favour of giving Government the authority to determine from time to time whether a Deputy Municipal Commissioner was needed and if so to appoint him. To pacify the opposition, however, the Committee suggested that no such decision should be arrived at by Government without the Corporation and the Commissioner having been in the first instance consulted. It also made it clear that the Deputy was to act under the Commissioner's general direction and would not, therefore, 'relieve the latter of the sole responsibility for the executive with which it was the policy of the Bill to invest him.'

In the original Bill the clause defining in general terms the respective functions of the several Municipal authorities ran as follows:—

'The respective functions of the Corporation, of the Town Council and of any Committee appointed under Section, shall be such as are specifically prescribed in or under this Act. Except in so far as authority is expressly vested by or under this Act in the Corporation or in the Town Council, or in any such Committee as aforesaid and subject, whenever it is in this Act expressly so directed, to the bodies aforesaid, the duty of the carrying out the provisions of this Act vests exclusively in the Commissioner.'

The authority proposed to be expressly vested in the Corporation was the power of the purse. With that exception, the entire residuary authority and jurisdiction was to be exclusively vested in the Commissioner. The Select Committee conceded that the supreme position of the Corporation, as the body entrusted with the Municipal government of the City, should be more distinctly

emphasized than it was in the Bill. Except in so far as the Act vested executive powers in the Commissioner and his subordinates, the Municipal Government should, it thought, be vested in the Corporation and their delegates, the Standing Committee. It accepted at the same time the principle that the entire executive power and responsibility for the purposes of the Act should be vested in one Commissioner which, in its opinion, implied that the Commissioner should be charged with entire executive power, subject only to such financial and other restraints as the Legislature might think fit or necessary to impose.

Two new sections were added to confer upon the Corporation the right, which the Select Committee thought they should possess, of calling for extracts of proceedings, returns, etc., from the Standing Committee, and for production of records, correspondence, plans, etc., or for returns, reports, etc., from the Commissioner.

The Bill contemplated the appointment of a Clerk of the Corporation by the Corporation and of a Municipal Secretary, who should be Secretary to the Standing Committee, by that Committee. Provision was made to admit of the Municipal Secretary holding, with the approval of the Standing Committee, the office of the Clerk of the Council. The Corporation had, however, proposed that there should be only one officer for the two posts, who should be appointed and be removeable by the Corporation. The Select Committee was divided in opinion upon this subject.

The Corporation had asked that the power of appointing a Municipal Controller should be vested in them, and that the Standing Committee be authorized to obtain reports from the Controller direct. The Select Committee considered that as the Commissioner was responsible for the proper keeping of accounts, it was

reasonable that the choice of accountants from the Chief Accountant downwards should rest with him, and that they should look to him as their head, whether for promotion or any other official purpose. If, on the other hand, it was desired to effect a more perfect control over the accounts, it was obvious that such control should be exercised from outside the Commissioner's office and not through the instrumentality of his immediate subordinates, who, if friction and animosity were to be avoided and a proper discharge of duties was to be insisted on, should be under no inducement to slight the Commissioner's authority or to hesitate in fulfilling his orders.

The amended Bill, though a distinct improvement on the original draft, still possessed several objectionable features. The Corporation, therefore, addressed a long letter to Government on 2nd March 1888, acknowledging that 'the Bill on the whole had been decidedly improved by the Select Committee,' but at the same time calling attention to several important issues involving principles 'on the recognition of which depended the power of the Corporation as the body entrusted with the Municipal Government of the City.' Believing that even the amended Bill did not give them supreme power of management, they demanded absolute and perfect control of the Budget, power to obtain direct the opinions of Municipal officers and full information of any kind, and power to determine the general policy to be pursued by the Town Council and the Commissioner and other executive officers. The following plain and outspoken words showed that they were not in a mood to accept any other position:—

'The Corporation are anxious that their views of the case should not be ignored; either they are, or they are not, to be the governing body of this City; if they are to be the governing body,

they should be entrusted with full power to carry out what they believe to be right and best; if they are not to be the governing body, there is then no apparent necessity for their existence.'

The result of all this discussion and agitation was that the Bill, as finally passed, was purged of most of the obnoxious features to which the Corporation had objected. Throughout the passage of this legislation through the Council a conciliatory policy of give and take marked the attitude of the representatives of Government and the Corporation. Thanks to their skilful piloting, the City obtained a new charter of municipal government which has had the longest life in the history of Local Self-Government legislation and has remained up to the present moment a 'monument of wise and liberal and far-seeing legislation.' During the last thirty-six years the Act has been amended in several directions; but the framework is still the same and the basic constitutional features have remained unaltered.

Under the new Act all legislative authority, financial control and powers to impose taxes, to sanction large contracts, to call for the production of papers, to create new appointments or raise the salaries of officers, including the Municipal Commissioner, were vested in the Corporation. The Commissioner, as the chief executive officer, was subordinate to the Corporation in every respect, excepting the details of executive work in which his liberty of action was untrammelled. Such a limitation of authority, however, did not reduce him to the position of a mere servant of the Corporation. Although bound to carry out the behests of the Corporation within the sphere defined by law, he was individually charged with other statutory duties to be performed on his own responsibility. Nor was he, although appointed by Government, a servant of Government. His position, as pointed out by Lord Reay in winding up the historic

debate on the Bill, was to be substantially the same as that of officials lent by Government to the Native States. 'He will not receive,' said he, 'any instructions from Government except on the cases as provided by the Bill, and Government will have to pay a scrupulous regard to his independence. . . . . The Municipal Commissioner does not represent or commit Government by anything he says or does. He must in order to serve the rate-payers satisfactorily have the discretion, the qualified freedom of action, which the exercise of executive authority implies.'

Such is the history of the introduction of the Municipal Act of 1888. A discussion of some of its more important provisions may conveniently form the scope of a fresh chapter.

CHAPTER XXVII

THE ACT OF 1888:

CONSTITUTIONAL PROVISIONS

THE keystone of the constitution is to be found in the following clauses of Section 64 of the Act which defines the relative position of the Corporation and the Commissioner :—

'Except as in this Act otherwise expressly provided, the Municipal Government of the City vests in the Corporation.

'Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the Corporation or the Standing Committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the Commissioner.'

It is well known that Pherozeshah Mehta played a prominent part in moulding this Section. It was a pleasure to hear him refer to this Section and expound the meaning and significance of every word of it, whenever there was an attempt on the part of the executive to flout the authority of the supreme body or on the part of individual members of the Corporation to trench upon the powers of the Commissioner. So enamoured was he of his handiwork that he appeared to regard it as the last word in the art of local self-government in India. In the midst of all movements which he led for the political advancement of the country, it never occurred to him till the last day of his life that a further step on the path of local self-government was long overdue.

The functions of a representative body such as the Corporation are general superintendence and check; administrative, commonly called executive, work can

only be done by those who have been trained to it. That is the quintessence of wisdom in local self-government. The Municipal Act gave independent power to the Commissioner within his own specified sphere of activity, subject to general supervision and control by the Corporation and special and direct supervision and check by the Standing Committee. The Legislature having fully recognized the supreme authority of the Corporation, all the members of the Council at the close of the debate, including the representatives of the Corporation, Mehta and Telang, blessed the measure as 'the most liberal charter in the matter of local self-government possessed by any City in India' framed on sound principles, sound in theory and tested by experience. R. West observed that it had been drawn 'by careful induction from experience.' Facts and tendencies had been accepted as guides of policy and that gave 'the best prospect of future efficiency and success.' The President, Lord Reay, was so pleased with the measure, as finally adopted, that he decided to send it to Professor Gneist, the greatest living authority of the day on local government legislation. Forbes Adam alone struck a discordant note. Renowned for his public spirit and staunch radicalism, he formed with Mehta and Telang, in the words of Sir Dinsha Wacha, 'a stalwart trio who fought Daniel-like inch by inch, to secure the greatest freedom practicable for the citizens in the management of their own affairs.' He alone discerned a serious flaw in that superb piece of local legislation and he confessed that while he hoped it might be found in practice to work smoothly, he had grave misgivings.

'I regret,' said he, 'that Your Excellency's council has not seen its way to give such consistency and all-pervadingness to the great central principle of the Bill, the principle that the

Corporation is the governing body, that no possibility of question and uncertainty of clashing could hereafter arise. The idea of co-ordinate authority seems to me to be fraught with chances of friction and irritation. It is an attempt to reconcile what is irreconcilable. It possesses the elements of unsettlement and feud. I firmly believe the Bill might throughout all its sections have emphasized and accentuated its central principle without running the slightest danger of fettering and interfering unduly with the Commissioner in carrying out the details of the executive work of the Municipality.'

How that object could have been carried out it is needless to discuss now. How it may be accomplished in future will be subsequently considered. Meanwhile it must be observed that Forbes Adam's words proved strangely prophetic on several occasions of friction and contest between the Corporation and the Commissioner. Whether the march of subsequent events has not made the existing system an anachronism is a question that now calls for decision. What was best for the past generation can no longer be accepted as the ideal form of Government in these more democratic days, and it is not at all surprising that a radical change in the system of supervision and control, through special Committees, has recently been very freely advocated.

Another provision which bears closely on the constitutional relations between the supreme body and the Chief Executive Officer is clause (t) of Section 36 of the Act. The Select Committee proposed to give powers of speech to the Commissioner whereby 'the Commissioner was made into a wonderful embodiment of 72 members rolled up in one.' He could rise hurriedly every time a member sat down, to answer him and correct him. 'Any one,' said Pherozeshah Mehta, 'who had any experience of managing meetings knew that such a Commissioner would be an intolerable nuisance.'

West also regarded this question as striking at the very centre of the constitutional principles of the Bill. It appeared to him undesirable that the Commissioner should have the right to interpose his voice as often as he pleased, even in correcting facts. He should have an opportunity of making an explanation of facts, but should not be in a position to force his explanation upon the Corporation at a moment which might conceivably prove inopportune. Such intervention, unless diplomatically timed, might result merely in exciting mutual irritation between the two component parts of the Corporation, namely the Commissioner, as representing the practical experience, and the members, the theoretical knowledge. At his instance, therefore, the clause was amended and adopted as follows :—

'The Commissioner shall have the same right of being present at a meeting of the Corporation and of taking part in the discussions thereat as a Councillor, and with the consent of the majority of the Councillors present, ascertained by show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote or to make any proposition at such meetings.'

Another bone of contention was the proposal to allow the Commissioner to act as a member of the Legislative Council and of the Board of the Port Trustees. The Advocate-General, Latham, objected to overburdening the Commissioner with extraneous duties, but Pherozeshah Mehta agreed with the mover of the Bill that on the Board of the Port Trustees the Commissioner would be a useful member. The President also called attention to the fact that the main object of the provision was to safeguard the interests of the town, 'seeing how interwoven are the managements of the town and of the Port.' It was thereupon agreed that the Commissioner should be allowed to serve as a Trustee of the Port, but

the proposal to provide for his nomination as a member of the Legislative Council was, in deference to the general opposition, abandoned.

With the relative position of the Corporation and their Chief Executive Officer thus defined, the Act constituted three Municipal Authorities: (1) the Corporation, the supreme administrative body and the custodian of the city's purse; (2) the Standing Committee, the Financial Advisory Body and Working Committee of the Corporation; and (3) the Municipal Commissioner, the Chief Executive Officer. Their duties and powers remained practically the same as in the Acts of 1872 and 1878. The composition of the Corporation was, however, slightly altered. It consisted of 72 Councillors, 36 elected at Ward elections by the rate-payers, 16 elected by the Justices, 2 elected by the Fellows of the Bombay University, 2 elected by the Chamber of Commerce and 16 appointed by Government.

The Chairman of the Corporation was styled President. The Advocate-General who had opposed the proposal to call the Corporation the Town Council and who had also asked that the Town Council should be called the Standing Committee on the ground that the designation of Town Council had very often led that body to consider itself a sort of House of Lords, was not wholly satisfied with the designation of President. He evidently thought that there was a great deal in a name. In order to bring into prominence what he considered was the true position he proposed that the presiding authority of the Corporation should be designated Mayor instead of either Chairman or President. The designation had been in vogue in the city many years before either President or Chairman was dreamt of, and it would have brought the nomenclature into unison with that prevailing not only in England but on the Continent of Europe. Considering

the importance of the City of Bombay, he thought it only right that when its head was called upon to take his place, as Sir Henry Morland had to do only the year before, on the occasion of Queen Victoria's jubilee, with Mayors of English boroughs and the Lord Mayor of the City of London, he should enjoy as much dignity as any one of them. 'Our Mayor,' said he, 'might even become Lord Mayor of Bombay considering the relative importance of the City.'

Upon the member in charge of the Bill this suggestion came as a surprise. It had never before been urged by any one in Bombay. The proposed designation was one which was not used in India and would prove misleading to strangers. Certain powers were enjoyed by the President, but he did not possess such powers as would properly belong to a Mayor. Telang stated he had been told by an European friend that a Mayor would be expected to give various entertainments, which would make his office decidedly onerous. The amendment was lost.

Subsequent proceedings of the Corporation show that they would have been satisfied with a more modest title for their head. At the instance of Major Selby they sent a representation to Government stating that they were very desirous that the President's office should be invested with some dignity and that a title such as 'Honourable' might be attached to the office. In reply they were informed that while His Excellency the Governor in Council desired to recognize and to maintain in every reasonable way the dignity of the office of President of the Corporation, he was of opinion that that dignity was sufficiently expressed in the official designation itself and that the addition of any further title was undesirable.

Then came the question of investing the President

with the insignia of his office. It was Major Selby again who proposed that a chain and badge of office should be provided for the President. The Municipal Solicitors, however, advised the Councillors that by no possible straining of language it could be held that the provisions of the Municipal Act authorized such an outlay. Thereupon, an anonymous offer of a gold badge and chain for the President was promptly made. There is no harm now in divulging the name of the donor. It was Nanabhai Byramjee Jejeebhoy. The offer was, however, respectfully declined with thanks.

To return to the provisions of the Municipal Acts. Closely connected with the question of the Commissioner's responsibilities as Chief Executive Officer of the Corporation, was the proposal to provide for the appointment of a Deputy Municipal Commissioner. Pherozeshah Mehta moved that all the sections relating to the creation of the new appointment of a Deputy Commissioner be deleted from the Bill. Although the provision for the appointment was permissive, he maintained that it was made with the view of setting it in motion shortly after the passing of the Bill. A Deputy Commissioner was unknown to the Acts of 1872 and 1878. The short Act of 1885 was passed merely for a temporary and different purpose, namely to enable the Commissioner, Charles Ollivant, to leave Bombay on special duty, in connexion with the drafting of a Bill to amend the Municipal Act, leaving the direction of affairs to a Deputy. It was essentially different from the object of the Bill under discussion, which was to give the Commissioner a permanent Deputy to assist him in the discharge of his duties while he was fully engaged on the same work. The sole reason given for providing a Deputy was the increased volume of work in the Commissioner's office. There was a certain haziness about that argument. The

original complaint of excessive work did not refer to the legitimate duties of the Commissioner but to a mass of mechanical and routine work, such as the signing of an enormous number of documents, which he was legally required to perform under the peculiar wording of some of the sections of the Municipal Acts. The Bill under discussion had provided a special and comprehensive remedy for this burden, namely, the delegation by the Commissioner of several of his functions to subordinate officers. To provide a Deputy Commissioner, who would share the work of the Commissioner, was repugnant to the constitutional arrangements devised for the distribution of work. By those arrangements the Commissioner was to have deputies for special classes of work, such as the Health Officer and the Executive Engineer who, as was pointed out in the debates on the Bill of 1872, were Deputy Commissioners for special puposes. Moreover, the Corporation had appointed a Personal Assistant to the Commissioner and special officers for special work whenever necessary.

A still stronger objection of a positive character was urged against the proposal. The presence of a Deputy Municipal Commissioner would mar the integrity of the constitutional principle, on which much stress had always been laid, viz., that there should be a sole Municipal Commissioner invested with full executive power and responsibility. To give him another officer to whom he could make over certain general duties, would be tantamount to a division of that responsibility; and divided responsibility was no responsibility at all. The Bill provided that the appointment should vest in the Governor in Council. That provoked further discussion. The place might in time be systematically given to a junior member of the Indian Civil Service, who would 'consider himself entitled to a lien on the Commissionership.'

The practical result of such an arrangement would be, said Pherozeshah Mehta, to place the Commissionership generally in the hands of a junior Civilian, notwithstanding that it was admittedly of the utmost importance that the place should always be filled by an officer of long standing and great experience.

Mehta found a powerful and sagacious supporter in Telang. As to the argument underlying the proposed creation of the appointment, viz., the great volume of work in the Commissioner's office, the Hindu Jurist remarked that it was not the class of work which had necessarily to be performed by the Commissioner or the Deputy Commissioner. He knew that Bombay was not an extinct volcano and that there would be plenty of work for the Municipality in future. But he was not sure that it would be the sort of work for which an officer of the kind suggested would be required. Ultimately Pherozeshah Mehta's amendment was lost, His Excellency the President having given his casting vote against it. It is worth remarking that the vote recorded by His Royal Highness the Duke of Connaught was in favour of the amendment. The battle was not, however, altogether lost. A strategic move by Telang converted the defeat into a partial victory. Anticipating the fate of the amendment, he had given notice of another amendment, viz., that the power of appointing the Deputy Commissioner should vest in the Corporation. The Executive Engineer and the Health Officer were both appointed by the Corporation subject to confirmation by Government. Telang saw no reason why the Deputy Commissioner should stand in a different category. To this the answer of the member in charge of the Bill was that if it was right, as the Bill asserted it was, and as it was generally admitted to be, that the Commissioner should be the nominee of Government, they could not in

his view draw any distinction between the grounds which affected the Commissioner's appointment and those which affected the Deputy's appointment. A forcible argument for reserving to Government the right of appointment was that the section contemplated that the post should usually be temporary only, and that Government, having at their disposal a large number of officers in the several branches of service, would at all times be able to select a competent person from the ranks of the public service. That was a convenience which the Corporation did not and could not possess. To these arguments West added the somewhat fanciful suggestion that if the Deputy was appointed, not by Government, but by the Corporation, differences of opinion and friction might arise. 'For,' said he, 'the Deputy Commissioner, who would be a man having the greatest influence with the members of the Corporation, would thus hold his head quite as high as the Commissioner, whose subordinate he is supposed to be.' To this argument Pherozeshah Mehta had a complete answer. The Health Officer and the Executive Engineer were officers entirely subordinate to the Commissioner. Yet ever since the passing of the Act of 1872 their appointment had been vested in the Corporation and it was well known that there had not been the slightest break of harmony between those officers and the Commissioner.

In the light of the existing experience of the manner in which the various Deputy Municipal Commissioners, since appointed by the Corporation, have carried out their duties, one can vouch for the fact that instead of emulating the poppies in their pride, these Deputies were bent upon making themselves altogether inconspicuous. At the most a sentence or two in the Municipal Blue Books refer to the influence which they have exercised on the administration or the work which they

have accomplished, so completely have their personalities been merged in the Commissioner.

On a division, the amendment was carried and the representatives of the Corporation had the satisfaction of wresting the newly-created appointment from the hands of Government.

The appointment of the Municipal Secretary and of clerks and servants subordinate to him was left without discussion in the hands of the Standing Committee. But a fierce battle was waged in the Council over the appointment of the Chief Accountant. Pherozeshah Mehta moved that the right to appoint that officer should vest in the Corporation, submitting that the apprehensions of friction and insubordination which were entertained when the appointments of the Health Officer and the Executive Engineer were vested in the Corporation had been proved by experience to be utterly unfounded. The two officers in spite of their appointment by the Corporation had uniformly rendered most cheerful and loyal obedience to the Commissioner and he saw no reason why there should be friction if the Chief Accountant was also appointed by the Corporation. He could not imagine why the Head Accountant should be more under the Commissioner's immediate and absolute control, unless it was thought desirable that facility should be given to him for manipulation of accounts to hide irregular and unauthorized action. His proposal would save the Commissioner from all such temptations. Telang reiterated the same argument.

The mover in charge of the Bill explained that the officer in question was not the Controller of the Municipal Accounts. He was in fact little more than the Commissioner's Head Clerk. The real control of the expenditure and of the accounts was vested in the Town Council and in the Auditors appointed by the Corpora-

tion. If that control was considered weak, the remedy was to appoint a Controller, but that officer should hold his appointment outside, not within, the Commissioner's office. West also urged that the control of accounts ought necessarily to be vested in a body or an individual standing entirely apart from the establishment. But the most reasoned and effective speech on the subject was that of J. B. Richey.

'The Municipal Commissioner himself,' he observed, 'is the head of the accounts and finance department and is responsible. The officer who works under him in that branch is merely his subordinate, and I can hardly understand the ground taken by the Hon'ble Mr. Telang when he tried to put them on a parity with the two other officers who are retained for strictly professional duties. The Accountant will in every respect be subordinate to the Commissioner. It would upset the basis of authority if he were made an independent officer, owing his nomination or promotion to the Corporation and responsible to them for his position in the world.'

He might have pointed out that if the Commissioner, as the chief executive officer, flouted the advice of the two expert officers, the Health Officer and the Executive Engineer, serious complications would arise, involving possible risk to the health and safety of the public and that, therefore, it was only right that those officers should have a certain degree of independence, enabling them in such cases to approach the Corporation. Moreover, holding short-time, renewable, statutory appointments they stood in a class by themselves, whereas the Chief Accountant was one of the ordinary class of permanent officers, whose advice in financial matters, if disregarded by the Commissioner, was not likely to do irreparable harm to the interests of the City, the Act having already provided sufficient safeguards against irregularities and sufficient checks for the discovery and rectification of any irregularity that might take place in consequence of default,

either on the part of the Commissioner or on the part of the Chief Accountant.

'The Hon'ble Mr. Telang cannot conceive,' added Richey, 'that he (the Chief Accountant) would be tempted to usurp the functions of his superior, but it is constantly assumed that usurpation of authority by the Commissioner must be looked for and guarded against. As the Hon'ble Mr. West has said, not only with people in this country but all over the world in official life intrigues and cabals and personal influences are powerful, and it is not impossible to conceive that he would work into the hands of the Corporation as against the Municipal Commissioner . . . . We must legislate with a view to human nature. There should be harmony between the Municipal Commissioner and his chief financial adviser, which is essential to the due working of the Municipal executive machine. This can only be done if the subordinate is in a position to look for countenance and support to no one outside the office.'

The amendment was rejected, and the appointment remained in the gift of the Commissioner. The power of appointing a Chief Accountant, however, now vests in the Corporation under the recently added Section 80A of the Municipal Act, which gives the Corporation the power to make all appointments the minimum salary of which is Rs. 500 or more. Not content with this, a section of councillors now desires to make the Chief Accountant independent of the control of the Commissioner. Forgetting that they have ample powers of control from outside, they seek to control the Commissioner from within in this way. But the proposed reform is incompatible with the existing constitution under which the Chief Accountant is required to keep the accounts for the Commissioner and the Corporation and to advise them in matters of accounts, for the scrutiny of which the Corporation have the power to appoint independent auditors. For the proper disbursement of the funds the Municipal Commissioner is primarily responsible, and

the Standing Committee, aided by the Municipal Secretary, is required to watch the interests of the City and to see that no payments are made except under due authority. No cheque on the Municipal Fund can be drawn unless a member of the Committee and the Secretary sign it. The Committee is also required to conduct, with the assistance of the Secretary and the Municipal auditors, appointed by the Corporation, a weekly scrutiny of the accounts, and to publish a weekly abstract of all receipts and expenditure, signed by not less than two members of the Committee and the Secretary. The accounts are subject, further, to a daily post audit by the Auditors, whose duty is to report forthwith to the Standing Committee any impropriety or irregularity. No better guarantee against irregularity could have been devised. If the system has failed, if the Municipal Commissioner is credited with the sinister design of manipulating accounts and of using the Accountant as his tool in such nefarious transactions, the mere elevation of the Chief Accountant to the position of an officer with independent powers to correspond direct with the Corporation will offer no guarantee against irregularity. It will minimize or perhaps completely shatter the responsibility of the Commissioner for the proper disbursement of funds, and if the elaborate system of audit provided by the Legislature does not work efficiently, worse irregularities perpetrated by the Accountant would pass unnoticed under the proposed arrangement. The real remedy lies not in weakening the control of the Commissioner over the departments, but in tightening the grip of the Corporation over the Commissioner himself and in strengthening the outside audit of the accounts kept by the Chief Accountant. The independence of the Accountant under a system of administration which does not admit of a Chief Executive

Officer is conceivable, but so long as there is one, whom the Accountant is expected to advise and whose accounts he is intended to keep, his independence would be altogether subversive of discipline. As well might the Assessor and Collector or the Store-keeper be made independent of the Commissioner and the Commissioner himself be placed as an exhibit in the archæological section of the Prince of Wales Museum!

CHAPTER XXVIII

THE ACT OF 1888:

FISCAL PROVISIONS

THE fiscal policy remained practically unchanged under the Act. The same taxes were legalized, except that the tax on Fire Insurance Companies was abolished and in its stead a fire tax of not more than ¾ per cent of the rateable value of properties was introduced. The Town Duties on grain, flour, ghi, timber and firewood also remained, much to the chagrin of Lord Reay. The schedule of those duties, he said, constituted a blot which, he hoped, the next amending Bill would remove.

The Municipal Taxes, with these alterations, were defined as follows :—

(1) Property taxes to be levied on buildings and lands in the City—(*a*) A Water Tax of so many per centum of their rateable value as the Corporation may deem reasonable with reference to the expenses of providing a water supply for the City; (*b*) a Halalkhore Tax not exceeding three per centum of their rateable value; (*c*) a General Tax of not less than 8 and not more than 12 per centum of their rateable value; (*d*) a Fire Tax of not more than ¾ per centum of the rateable value.

(2) A tax on vehicles and animals.

(3) A toll on vehicles entering the City from Salsette.

(4) Town Duties.

The following additional items of revenue were provided :—

(1) Liquor License fees.

(2) Receipts from Tobacco Duty and Licenses.

(3) Receipts on account of fees for licenses for Public Conveyances.

(4) License fees for the regulation of certain trades within the City.

(5) Receipts on account of fees for licenses for the playing of music in streets and public places.

(6) Fines levied by any Magistrate in respect of any offence against the provisions of the Municipal Act or of any regulation or by-law made under the Act.

The system of assessment of Government and Port Trust properties formed a highly controversial theme. The Bill originally exempted buildings and lands belonging to the Government and provided that the Secretary of State for India in Council should pay to the Corporation in lieu of the General Tax such annual sum as an officer from time to time appointed by the Governor in Council might determine. Regarding this provision the Corporation proposed that the contribution to be paid should be fixed by agreement between the Corporation and Government, and failing such agreement by arbitration. Mutual agreement in such a matter was, however, next to impossible, and arbitration, as ordinarily conducted, would have been lengthy and costly. The Select Committee, therefore, suggested that the amount should be fixed from time to time by a person appointed, with the concurrence of the Corporation, by the Governor in Council. West accordingly moved an amendment in the Council to the effect that the rateable value of Government properties should be fixed quinquennially by a person appointed by Government with the concurrence of the Corporation and that the sum to be paid annually to the Corporation should be eight-tenths of the amount which would be payable by an ordinary owner of properties in the City, assessed at the same amount. He observed that the interests of the City and citizens of

Bombay were so closely interlocked with the interests of the Presidency and the whole Empire that it was impossible to say when the interests on the one side ceased and on the other came in. It was 'like the analysis of the various shades which overlap and blend to form white.' It was essential, therefore, that some compromise should be arrived at.

The principle propounded was, in brief, that Government properties should be assessed on a special basis, having regard to the fact that several special considerations attached to them which did not apply to ordinary buildings occupied for purposes of profit. When the Act of 1872 was under consideration, the question was raised whether it was within the power of the Corporation to assess for Municipal purposes buildings held by the Secretary of State. That question was never raised on this occasion, so that the only point of difference was whether the proposed reduction was excessive. 'Let us suppose,' interposed the President, 'Bombay had not been made the capital of the Presidency and the question were still open, would not other towns be very pleased to give us a reduction far beyond two-tenths?' This effective home-thrust put a stop to further discussion and the amendment was adopted without a single dissentient voice.

As regards Port Trust properties, it was agreed that they could only be regarded as quasi-public property occupying a position midway between private and public property, and that the Governor in Council being a disinterested person, the valuation of such properties should be fixed by him, and that the sum to be paid annually by the Board should be nine-tenths of the amount payable by an ordinary owner of buildings and lands in the City. By Act II of 1901, however, the amount has been increased to nineteen-twentieths, and

even this concession provokes dissent from members of the Corporation at the time of the annual Budget.

For the preparation of the Budget an elaborate procedure was prescribed, and as it illustrates the power of the purse exercised by the Corporation, it will not be out of place to explain the procedure at some length. The Commissioner must prepare and lay before the Standing Committee, before the 10th day of November, an estimate of the probable expenditure for the ensuing year and of the balances available, and a statement of his proposals for taxation. The Standing Committee should then, with due regard to all requirements of the Act, frame a budget estimate of the income and expenditure of the Corporation for the next official year. In the Budget, a printed copy of which must be sent to each Councillor not later than 15th December, the Standing Committee should propose the levy of taxes and Town Duties at such rates as they think fit, provide for the payment of instalments of principal and interest in respect of Municipal debt, and allow for a cash balance at the end of the year of at least one lakh of rupees.

The Budget estimates must then be considered by the Corporation at their January meeting, which should be held on a day not later than the 10th. Before the 31st January the Corporation must determine the rates and town duties to be levied for the following official year. Subject to the exigency of this provision the Corporation may either refer the estimate back to the Standing Committee, or adopt or alter it as they think fit, provided the Budget estimates finally adopted shall fully provide for payment of instalments of principal and interest in respect of Municipal debt and also for a minimum cash balance of one lakh of rupees.

There was a lively discussion in the Council on the Advocate-General's proposal that the Corporation

should have the right to refer back to the Standing Committee the entire Budget Estimate or any item therein. Pherozeshah Mehta deemed it curious that he should have to oppose the proposal, but he felt constrained to inform the Council that his experience of the manner in which alone the Corporation could deal with the Budget had led him to the conclusion that the power to refer back separate items to the Standing Committee could serve no useful purpose, while it was likely to cause unnecessary delay. He apprehended that such a proceedure would encourage members of the Corporation to refer items back so as to avoid the effort of grappling with them all at once—a tendency which is not infrequently to be observed in the deliberations of large bodies. The Advocate-General was, however, not convinced. 'The present system seems to me,' said he, 'like burning down the house to make a roast pig.' Telang and Forbes Adam shared his views, but his amendment was defeated.

To proceed with the description of the Budget procedure. After the Budget Estimates are finally passed, the Corporation may during the year increase the amount of the Budget grant or make additional grants on the recommendation of the Standing Committee, and the Standing Committee may reduce or transfer a budget grant, but if the amount of reduction or transfer exceeds Rs. 500, the Corporation may pass any order in regard thereto. If the estimated income does not suffice to cover the estimated expenditure, the Corporation should take measures to proportion the year's income to the expenditure or should have recourse to supplemental taxation as provided in the Act.

Such is the financial scheme of the Municipal Act. It confers on the Corporation full control over the expenditure under a sanctioned Budget as well as the power

to determine the amounts in respect of the items incorporated in the Budget. Possessing thus the power of the purse, the Corporation can have their opinion and wishes respected and carried out by the Standing Committee and the Commissioner.

It is important to observe that Government have no power to approve or modify the Budget. Nor do they control municipal accounts. The Corporation enjoy complete fiscal autonomy. It is assumed that the supervision of the members of the Corporation and the control of public opinion would be efficient enough to check all wasteful expenditure and leakage. In other words, the financial scheme embodied in the Act presupposes that the municipal life of the city will be imbued with a spirit of public economy and financial purity far more effective than any system of control which could be devised by Government. But such local autonomy does not extend to the creation of municipal debt. The borrowing powers of the Corporation are carefully circumscribed by the statute. Without the sanction of Government no loan can be raised. Borrowing is not permissible for the execution of any work other than a permanent work. The sum borrowed should not at any time exceed with the balances of outstanding loans double the rateable value of the premises in the city, assessable to property taxes. Loans must be repaid in instalments spread over a period of years not exceeding sixty and the rate of interest, the period of repayment and the number and amount of instalments are all fixed by Government. In practice, however, the central Government's supervision of the loan transactions of the Municipality has been remarkable for its slackness. The annual loan works budgets have always been veritable Chinese puzzles for the democratic councillors and bureaucratic officers of Government alike and the city's finances have, in consequence,

suffered considerably. Only lately have the Corporation and Government awakened to the unsatisfactory position concerning municipal indebtedness and the irregularities that have prevailed and it may be hoped that the intention of the Legislature to reduce and control municipal borrowing will now be carried out as stringently as it should be.

CHAPTER XXIX

SPECIAL AGENCIES FOR COMBATING PLAGUE

IT is a far cry from 1888 to 1925. During the interval the Municipal Act has been constantly on the anvil. Indeed, it has been so often tinkered with that one wonders whether one should admire or deprecate the readiness of Government to accept and thereby encourage the unmethodical proposals for piecemeal legislation made from time to time by the Corporation. It is not necessary to overload this work with details of all such amending measures. A passing reference to some of those periodic scraps of legislation, with the exception of a few which require detailed examination, will suffice.

Between the years 1888 and 1896 there were only two amending Acts: (1) Act IV of 1888, for the amendment of sections regarding the reservation of control by the Government of India over the loan transactions of the Corporation and the removal of petroleum from the list of dutiable articles; and (2) Act I of 1894 for the amendment of sections regarding the question of repayment by the Corporation of the Vehar Water Works debt and the question of giving power to the Corporation of investing surplus funds. Towards the latter part of 1896, however, a violent catastrophe overtook Bombay, necessitating two special pieces of legislation trenching on the powers of the Corporation and practically superseding that body within specific spheres of local self-government. This crisis, involving cataclysmic changes in the established order of municipal government, was the Bubonic Plague. The first genuine case of the bubonic type, which occurred in Bhandup

Street, appears to have been reported to the Health Officer in August 1896 by a private practitioner, Dr. R. N. Ranina. He could not make out the disease nor was the Health Officer, Dr. Weir, able to diagnose the disease from the symptoms described by Dr. Ranina. The first to suggest that it was plague was Dr. Blaney who had an extensive practice in Mandvi; within a few months it worked havoc among the population. It was no unusual thing for a person to die within a few hours of being attacked; in many cases people walking along the streets fell down dead.

The Health Department did what it could to cope with this scourge. Every room in which a case occurred was thoroughly cleansed and disinfected. The other parts of the infected building were also flushed, the roof opened, and all obstructions to light and air removed, and systematic flushing and disinfection were carried out in the gullies, courtyards and drains. The house connections were overhauled, all rubbish, rags and infected articles of small value were burnt, and the more precious ones thoroughly disinfected. On the 6th October 1896, the Municipal Commissioner issued a notification stating that the ordinary provisions of the Municipal Act of 1888 or of any other laws in force in Bombay were insufficient for the purpose of effectively preventing the spread of the Bubonic Plague, and that he had, therefore, pursuant to the provisions of Section 434 of the Act, prescribed certain temporary regulations to be observed by the public and all persons concerned. These regulations secured for the Municipal executive the power to enter premises for cleansing and disinfecting them and any articles therein, whenever necessary, and to isolate infected houses. They also prescribed that any person suffering from bubonic fever, wheresoever found and whether provided with proper lodging or accommodation

or not, or whether lodged in a building occupied by more than one family or not, should, on a certificate signed by the Health Officer or by any qualified medical practitioner that such person was suffering from the disease, be liable to be removed to any hospital or place at which patients suffering from the disease were received for treatment.

The notification caused great consternation and provoked loud denunciations. The so-called hospitals were believed to be places of torture and centres for obtaining material for ruthless experiments. There was a general *sauve qui peut*; thousands left the city. While the exodus was in full flow, the railway stations were besieged by panic-stricken people clamouring for tickets. Despite the continuous despatch of special trains huge crowds were left behind on the platforms. Business was paralyzed ; shops were closed ; busy thoroughfares once teeming with life were completely deserted. However, despite the migration of the people and the consequent reduction in the population, despite all the efforts of the Municipality to check the ravages of the disease and to arrest its progress, it spread from east to west and then to the north, raising the daily mortality from three to four times the normal number. In the circumstances the Government of Bombay decided that they should lose no time in assuming control of plague operations. The Epidemic Diseases Act of 1897 was the outcome of this decision.

THE PLAGUE COMMITTEE

On the 5th March 1897, the Governor wrote a very friendly personal letter to the President. 'My Government,' said Lord Sandhurst, 'are about to issue a notification under the Epidemic Diseases Act, appointing an Executive Committee to carry out, under the orders of

the Government, all the measures within the City of Bombay that we consider necessary to check and prevent the spread of the plague. It is my wish that there should be no misunderstanding of the reasons which have led to this course.' He pointed out that the continued prevalence of the epidemic in Bombay was conclusive proof that it could not be kept in check by cleansing and disinfecting and all the other measures that had so far been relied on as sufficient. Other remedies were needed. If they could not summarily kill the plague, they could at least check its spread, reduce its strength and limit and weaken it till it would die a natural death. But they could not do that until special measures, namely the discovery of all cases of plague, the treatment of all patients in hospitals, the surveillance of contacts and the gradual segregation of the infected, were adopted. To carry them out most efficiently, it was necessary to appoint a small committee, not to consult and advise, but to work —a Committee that would divide the whole scheme of work, apportioning certain branches to each member. Government had, therefore, selected General Gatacre as Chairman ; P. C. Snow, the Municipal Commissioner ; Dr. Dimmock and Carkeet James, one of the Engineers of the Corporation, to be members of the Committee.

'They will be subordinate,' observed the Governor, 'only to Government; this is essential both because it is Government alone, by exercising the powers very recently conferred under the Epidemic Diseases Act, that can call the Committee into being and for another reason that I will now explain. Unhappily, this epidemic has spread beyond Bombay ; it has attacked places in Thana District and Poona severely and reached other places . . . . . Our efforts are required to be widespread, far-reaching and systematic ; they must, wherever they may be, be directed, controlled and harmonized. We cannot have one practice pursued in Bombay and a materially different one elsewhere ; our methods must be consistent and complete.'

It was thus necessary that all individual efforts, whether of Municipalities, of local boards or of local officers, should be made systematic and co-operative, and this, explained Lord Sandhurst, could only be done by Government. 'They must take the control absolutely into their own hands. To do this is no slur on local bodies; it is no blow to local self-government; it is simply an imperial necessity.' This remarkable letter ended with the earnest hope of the Governor that the co-operation of all the citizens of Bombay might be secured.

On the same day the appointment of the Committee was notified. The Special Committee was invested with all the powers conferred on or vested in the Municipal Commissioner by Sections 422 to 429 of the Municipal Act of 1888 and by other notifications. The most astounding part of the notification was the following clause:—

'The Municipal Commissioner of the City of Bombay and all the officers and servants of the Corporation and all public servants and all persons employed by the Committee shall carry into effect without delay any measures which may be ordered by the Committee.'

Thus were the Corporation enjoined to carry out the behests of two of their subordinates in conjunction with the other two members of the Committee! There was, however, no chance to protest. The conciliatory letter of the Governor was merely meant to reconcile the Corporation to what had become a *fait accompli*. Whenever in doubt or in distress, the Corporation's traditional method of overcoming difficulties is to resort to the counsels of a Committee. On this occasion also they sought solace and inspiration from the same source. They postponed consideration of the Government letter for a week, but recognizing the necessity for instantaneous

measures to suppress the disease, they sanctioned, in the meanwhile, as a matter of urgency, the expenditure of such sums of money as might be applied for by the Municipal Commissioner on behalf of the Special Committee appointed by Government, and appointed a Committee to report on the letter.

The Committee took a very dispassionate view of the whole question and, sinking all differences of opinion concerning the constitutional principles involved, counselled the City's representatives to adopt a sensible and dignified attitude in the face of a visitation that threatened to decimate the population and ruin the city. Of their own free will they had remained a deliberative assembly; executive responsibility they had scrupulously eschewed; and now that there was a clarion call for prompt and vigorous action they could not assert that they had either the experience or the agency to embark on the measures suggested for suppressing the scourge.

The following extracts from the draft representation to Government which the Committee submitted with its report show how the questions of legal rights and constitutional principles and prestige were subordinated to the more vital considerations of the health and safety of the people :—

'That the Corporation, without discussing the necessity of appointing the Plague Committee for objects which could have been, and were being largely, carried out without such intervention, or the legality of the course adopted by Government, will cordially co-operate and give all such assistance as may be necessary to carry out the measures adopted by the (Special) Committee.

'That though the Corporation consider that the language employed in Section 3 of the Government notification is not consistent with the constitutional position and functions of the Corporation, they will content themselves in the present grave crisis by putting on record their objection to such language and

to any inference that may be drawn from it being considered as a precedent, especially as they are persuaded that nothing further is meant than to require their assistance.

'That the Corporation would respectfully submit that in view of the large expenditure now being demanded from the Corporation, Government may be pleased to give some assurance that a fair and reasonable portion of the expenditure will eventually be met from Imperial funds, the efforts towards stamping out the plague being in a great measure an Imperial question quite as much as a local concern.'

This is not the place to examine the achievements of the emergent plague administration. Nor is it necessary for our present purpose to refer to the bitter complaints regarding its unbridled expenditure. We may merely note in passing that the measures adopted by the Plague Committee, specially the regulations for the removal of patients to hospitals and the segregation of contacts, were extremely unpopular. The population fled from the city as much from fear of the inquisitorial tyranny of the authorities as from terror of the disease. The privacy of home life is as jealously guarded in the East as in the West, but the new régime failed to recognize this fact or to make any allowance for the habits and customs and religious usages of the people. The distress, unrest and consternation caused thereby led eventually to riots and bloodshed. Attempts were made to enlist the co-operation of the leaders of different communities, and their intervention and persuasion went far to pacify the population. It was apparent, however, that the measures taken by the Committee, unpopular as they were, had made no impression on the course of the epidemic; and realizing that drastic expedients were both undesirable and inoperative, Government abolished the Committee in the year 1898, and maintained for several years a specially organized plague administration under the Municipal Commissioner,

who was called the Commissioner for Plague Operations and placed under the control of the Government in so far as these operations were concerned.

In the year 1901 the Municipal Commissioner as Plague Commissioner decided to carry on the Plague Administration with the advice and assistance of the Health Officer, under whose immediate orders the special plague establishments were placed. The 'Plague policy' was still continued as laid down by the Government of Bombay, but this arrangement paved the way for the ultimate amalgamation of the Plague and Health Departments. The retention of the Special Plague Administration under the control of the Municipal Commissioner as Chief Plague Authority was intended to obviate the difficulties that would otherwise have been experienced in dealing under the ordinary Municipal law with the numerous insanitary dwellings. The action taken against such houses by the Special House Improvement Staff had resulted in the radical improvement of a very large number of such houses. The Corporation, therefore, asked Government to transfer the Plague Administration to them. Inspired by the Commissioner Government replied on 15th February 1908 that they considered it inadvisable to revoke the powers exercised by the Municipal Commissioner under the Epidemic Diseases Act, until such time as new building by-laws had been framed and the provisions of the Municipal Act regarding overcrowding had been amended, and the superior staff of the Executive Engineer's Department had been strengthened. It took more than three years to comply with these preliminaries. The Corporation then repeated their request, and Government at last issued, on 8th May 1912, a resolution revoking the powers vested in the Municipal Commissioner as Plague Commissioner.

THE BOMBAY IMPROVEMENT TRUST

The other special agency introduced into the sphere of civic government to suppress the outbreak of the plague in Bombay was the City of Bombay Improvement Trust. The havoc wrought by the epidemic brought home to all concerned the urgent need for wholesale reconstruction of the City upon sanitary lines. Filled with people of various castes, creeds and races, most of them wedded to primitive habits, customs and beliefs, which were the despair of the Sanitary Officers, Bombay in respect of population in a given area beat all records of the great cities of the West, including London. It is no matter for surprise that the efforts of the Municipal Executive and of the Plague Committee proved unsuccesful. Obviously it was futile to attempt to treat the symptoms; the real remedy lay in striking at the root of the evil, the congested and insanitary localities and rookeries.

Early in the year 1897 the Government of Bombay devoted much thought to the question. They considered that in looking for a remedy they must seek one that should be permanent and continuous, one which should not apply or be limited in operation merely to Bombay in its stricken condition for the time being, but one which should secure also the future improvement of the City. Accordingly a skeleton improvement scheme was soon formulated, designed particularly to insure the better ventilation of densely-populated areas, the removal of insanitary dwellings and the prevention of overcrowding. In an address to a deputation from the Chamber of Commerce in the month of February in that year, the Governor of Bombay, Lord Sandhurst, referred to the immediate necessity for extensive sanitary improvements and dwelt upon the evil of overcrowding as 'a premium on crime, misery, squalor and

disease' and presaged as the outcome of the measures which were proposed to be taken consequent on the dire outbreak of disease, a healthier, more prosperous and more beautiful city.

On the 28th September of the same year the Government of Bombay laid before the Municipal Corporation and other public bodies definite proposals for the establishment of a special Improvement Trust, constituted on much the same lines as the Bombay Port Trust.

'Any scheme to be effective,' observed Government, 'must be on a thoroughly comprehensive scale and must provide not only for opening up crowded localities by the construction of new streets and acquiring frontages thereon for the erection of improved dwellings and for the levelling up of low-level areas, but also for improving existing insanitary dwellings and housing a very large number of poorer classes in the new sanitary dwellings to be let at an extremely low rate of rent. It must in addition provide room for the accommodation of the population to be displaced in the process of relieving congested areas, and lastly room for the future expansion of the city.'

The cost of a scheme of so comprehensive a character must be very considerable and that aspect of the question would, it was apprehended, be regarded by the Corporation as a very serious one. The balance of their borrowing powers would have barely sufficed to meet the cost of essential drainage works and extension of water-supply and other requirements of a more or less obligatory nature, incidental to the sound municipal administration of a large city. A scheme which would have rendered the city immune, as far as was sanitarily possible, from the devastation of epidemic attacks of diseases was in fact outside the range of duties of the Corporation. The Municipal Executive had, moreover, a sufficiently burdensome task in administering the general affairs of the City, and it was felt, therefore, that

for the measures which Government had then in contemplation it was imperative, both for general management and prompt executive action, that there should be a special agency with a separate staff at liberty to devote their entire energies to the particular task before them.

The Governor in Council fully recognized the success of municipal administration in Bombay, but he was of opinion that a scheme of the character proposed, requiring persistent and long sustained effort on systematic lines involving so many varied purposes with the prospect of an almost infinite number of questions of detail both in management and execution, and in which, moreover, large proprietary interests of Government would be involved, was essentially one that should be entrusted to a small administrative body, with special powers to raise funds, acquire property and execute necessary works. It was, therefore, proposed that a Board of Trustees should be constituted, on which the Corporation should be 'strongly' represented. The idea of such Trust was not, observed Government, a new one, a prominent precedent being the City of Glasgow Improvement Trust, which was constituted for similar purposes and had been successful in its results.

It was estimated that the entire cost of the scheme would not be less than Rs. 5 crores, but the Governor in Council was advised that, managed and financed by a Board of Trustees constituted and endowed as proposed, it would involve an addition to the Municipal rates of not more than 2 per cent on the assessable value of the properties within Municipal limits. The Government of Bombay were prepared to vest in the Trust valuable rights of administering all vacant land belonging to them within Municipal limits in addition to reclamation rights west of Colaba and at Walkeshwar, and the Corporation were asked similarly to make over their interests in vacant

Municipal lands to the Trust. All these proposals the Government were then engaged in formulating in the shape of a legislative enactment, but while thus engaged they desired to have the views and suggestions of the Corporation.

Once more, because it was merely a deliberative body, the Corporation found itself lowered in the estimation of the public. It had already been declared unequal to the task of combating plague, and now Government found it wanting in capacity and resource to cope with the measures necessary for the improvement of the city. Nothing, however, was further from the minds of Government than the idea of belittling the Corporation in any way. It had done excellent work within its recognized sphere of local self-government. But it was not an executive body, nor had it formed its own Executive Committees; nay, the champions of local self-government in Bombay had deliberately declined to undertake or identify themselves with the executive work of the Municipality. The supreme need of the hour was prompt and vigorous action. Bombay was the gateway of India and had business connexions with the whole world. The plague had paralyzed the trade of the port and it was felt that urgent measures for the sanitary regeneration of the city were needed to restore the waning confidence of foreign traders. Once more realizing their limitations, the members of the Corporation refrained from offering any opposition to the constitution of a separate organization to cope with the extensive projects outlined in the Government letter. They merely resolved that Government should be informed that they were of opinion that the object indicated was desirable, but that in the absence of details as to how the matter was to be carried through, to whom the lands which were proposed to be made over to the Trust were eventually to belong, and other

matters, they felt constrained to ask for further and detailed information, before they gave an unqualified adherence to the scheme, especially as a new body was about to be constituted, which 'to some extent' would 'conflict with or take over the powers' vested in the Municipality. A Committee was appointed to formulate the points on which further information was required by the Corporation, and Government were asked to favour the Corporation with a draft of the proposed Bill.

It would be tedious to wade through the proceedings of this Committee or the correspondence that ensued. Let it suffice for our present purpose to note that the main features of the scheme were approved by the Corporation as well as by the Port Trust and the Bombay Chamber of Commerce. The Corporation submitted, however, that their financial liabilities should be clearly defined, and that they should have the right to appoint no less than one-half of the members of the Board of Trustees. To this Lord Sandhurst, who personally introduced the Bill in the Legislative Council and who was in fact the originator of the scheme, had an effective reply.

'We felt in the first place,' he observed, 'that vast as is the sphere of the Municipality, it does not cover all the activities and interests of Bombay. We have been obliged to recognize that, just as the Corporation represents the city as organized for purposes of Municipal administration, so the Chamber of Commerce and Port Trustees represent Bombay as a centre of trade and commerce. We have also borne in mind that the interests of all concerned require that the military defence of the city should not be prejudiced by the operations of the Trust. We have further had to remember that the interests which are deeply concerned in the welfare of the city are widespread, embracing not only the whole Presidency but other parts of India, of which it is the trading centre, and we have, with the sanction of the Government of India and the Secretary of State, recognized this in undertaking to hand over to the Trust on very favourable terms

Government land valued at nearly Rs. 57 lakhs, and reclamation rights valued at 29 lakhs, the usufruct of which represents the contribution made by the general tax-payers to the cost of this great enterprise. It is obvious that in consideration of his large stake in this venture the general tax-payer is entitled to substantial representation on the Board.'

Bearing all these considerations in mind, Government proposed that the Board should consist of thirteen Trustees including the Chairman, of whom four should be appointed by the Corporation.

Pherozeshah Mehta, who was in England while the scheme was mooted, had returned to Bombay only two days before the day of the meeting of the Council to take part in its proceedings. He did not agree with those who thought that the Bill was an attack upon the constitution of the Municipal Corporation.

'If we consider the present Municipal Act,' he said, 'we shall see that it has always contemplated that there would be special and exceptional occasions on which it might be deemed desirable not to entrust the direct work of carrying out certain duties to a body constituted as the Corporation is, but that it might be necessary to delegate such tasks to a body composed somewhat differently to the Corporation. I need refer to nothing more than to the provision deliberately introduced in the Act for the purpose of the appointment of the Joint Schools Committee . . . . Perhaps I should have preferred—and appearances in this world go very far—if this Trust had been called by some name which might have brought it more in harmony with the nomenclature of Committees such as were contemplated in the Act.'

But while he agreed that no serious objection could be raised to the constitution of a separate Board, it appeared to him that there were some sections of the Bill which were 'calculated to make the Trust a department of Government.' The final arbitrament of financial questions was left entirely in the hands of Government.

These and other matters, he hoped, would be carefully considered by the Select Committee.

The Bill, as it emerged from the Select Committee, was, without doubt, greatly improved. But the Corporation's representation on the Board of Trustees remained the same. On the contrary, it was slightly adversely affected by an additional seat allowed to the elected representative of the Bombay Mill-owners' Association. It is, however, hardly necessary for us to follow the history of this legislation any further, as the Trust, after having been in existence for more than twenty-five years, is now on the eve of its exit from the arena of local government. Years ago, Government agreed to make over the affairs of the Trust to the Corporation, but it is the irony of fate that, having obtained what they wanted, the Corporation could not for years make up their mind as to the ways and means of shouldering the executive work to be entrusted to them. A Bill to effect these changes has, however, been recently approved by the Corporation; and when it is passed, another body which will virtually be an Improvement Committee of the Corporation, but will work as a separate entity under a specific statute, will arise, Phœnix-like, from the ashes of the City Improvement Trust.[1]

[1] While these sheets were passing through the press, the Bill was passed into law.

CHAPTER XXX

CORDIAL SETTLEMENT OF AN INVETERATE CONTROVERSY—THE POLICE CHARGES ACT

REFERENCE has already been made to the rude Bhandari militia which kept guard at the Governor's door in the early days of British rule. The earliest authentic mention of this police-force is to be found in the accounts of the governorship of Gerald Aungier. It then numbered from 500 to 600, all of whom were landholders of Bombay. Service in the militia was, in fact, compulsory on all owners of land, except the Brahmins and the Banias, who were allowed exemption on payment of fixed sums of money. 'It is a reasonable inference,' says Edwardes in his graphic story of *The Bombay City Police*, 'that the duties of the militia were dictated mainly by the military and political exigencies of a period in which the hostility of the neighbouring powers in Western India and serious internal troubles produced a constant series of "alarums and excursions".'

We have seen how this force was subsequently strengthened and how it happened to form part of the Municipal machinery. We have also noticed how the Corporation were gradually divested of all control over the Police. The Municipal Act of 1888 merely provided that the Police Commissioner should, as far as practicable, 'co-operate by himself and through his subordinates,' with the Municipal Commissioner for carrying into effect and enforcing the provisions of the Act and for the maintenance of good order in the city. It retained at

the same time the liability of the Corporation to contribute towards the maintenance of the Police. This liability was a perennial source of friction between Government and the Corporation.

The origin of the feud may be traced to the Act of 1865, which threw the whole cost of the Police upon the Corporation. Constant discussions on the subject took place between Government and the Corporation. Having agreed to contribute towards the expenses Government suddenly stopped payment in the year 1873. The Corporation thereupon asked for the restoration of the grant, but the Government of Bombay expressed its inability to do so without the orders of the Government of India. The contribution was restored at last in 1875—an act of grace which was rendered valueless by the issue of a resolution intimating that the contribution would not be continued beyond the year 1875–76. The Corporation were not, however, in a submissive mood, and replied by sending to the Local Government for transmission to the Secretary of State a draft memorial praying for a continuance of the contribution. This had a very salutary effect. A resolution was issued by Government restoring the contribution for the year 1876 and informing the Corporation that the memorial would not, in the circumstances, be forwarded to the Secretary of State. Undignified as was the part played by Government on this occasion, more amusing incidents were to follow.

In the same year another resolution announced that no contribution would be made for the following year. The Corporation tried the same weapon again—a spirited memorial to the Secretary of State. The effect was instantaneous. A letter was forthwith received from the local Government, once more restoring the contribution! Flushed with victory the City Fathers called upon the authorities to give an undertaking that the

payment would be continued from year to year. It seems that no such assurance was given, and soon afterwards Government arbitrarily deducted from the amount of contribution a sum of Rs. 15,000 for the maintenance of the Lock Hospital in connexion with the re-introduction of the Contagious Diseases Act. This abrupt cut and a proposal to deduct from the contribution certain other charges on account of the Presidency Police kept the embers of the controversy glowing until the issue of Lord Ripon's famous despatch of 1882.

In that despatch it was stated :—

'His Excellency in Council observes that at present the annual amount spent on Police by Municipalities in India amounts to about 27½ lakhs of rupees. The only function which the Municipalities discharge in regard to Police is the provision of funds for the purpose of meeting the whole or a portion of the cost of the Municipal Police Force. They practically exercise no control over the Police and cannot, therefore, be expected to take any special interest in the efficiency of the Force or to look with sympathy on a provision of the law which treats them as a machinery for raising taxes to be spent on a department over which they have no control, and in the efficient and economical expenditure of which they have little direct interest and no immediate responsibility. The Governor-General in Council would, therefore, be glad to see Municipal bodies relieved altogether of the charge for Police, an equal amount of expenditure on education, medical charity and, if possible, public works of local interest being transferred to them with as full control as may be expedient over the details of such expenditure.'

We have seen what steps the Corporation took to carry out the principles laid down in this despatch, but how, owing to the vacillation of the Government of Bombay, their efforts proved abortive.

Meanwhile the question of allocation of the Police charges between Government and the Corporation gave rise to perpetual dispute and discussion. Several memorials were sent to the Government of India, who ruled

that three-fourths of the cost should be paid by the Municipality and one-fourth by Government. Against this decision the Corporation sent an appeal to the Secretary of State, in the hope, perhaps, that it would have the same magic effect as the previous memorials to that authority. They were, however, doomed to disappointment on this occasion. The Secretary of State upheld the view taken by the Government of India. After these orders the question was treated as finally settled, and the subsequent contributions of the Corporation were made upon that basis. The truce was, however, short-lived. Government proposed to increase the Police Force, and this question formed another bone of contention. Once more an appeal was made to the Secretary of State, and once more his decision was against the Corporation.

Thus did the controversy drag its weary length until the year 1905, when the Governor of Bombay, Lord Lamington, felt that in the best interests of the city the feud must be ended. He asked his colleague in the Council, Sir James Monteath, whether he could find a solution of the vexed question. Sir James formulated some proposals which, however, did not meet with the approval of the Government of India, and it was left for Sir Steyning Edgerley to evolve a scheme which, after some discussion and modification, was ultimately incorporated in a Bill introduced in the Legislative Council on 4th September 1907.

The Bill was called the Police Charges Bill, but, as remarked by Sir Steyning in introducing it in the Council, it might really have been called ' a Bill to settle the outstanding differences between the Corporation and Government.' In settling the Police charges it settled also the question of responsibility for medical relief, vaccination and primary education and for the maintenance of the Prince of Wales Museum, and also certain

questions regarding music fees and fees for motors and public conveyances. The following extract from the statement of objects and reasons indicates the basis of the felicitous arrangement:

'Government have agreed to relieve the Municipal Corporation of Bombay of the Police Charges of the city on the understanding that the Corporation undertake certain liabilities of corresponding extent now devolving on Government, and the object of this Bill is to give legal sanction to the various re-arrangements involved. This Bill accordingly provides that in consideration of the transfer of the City Police Charges to Government, the Corporation should in future give a grant-in-aid to certain existing medical institutions and make full provision for public vaccination, all expansion of medical relief and primary education, and also assist in the maintenance of the Prince of Wales Museum. The Bill also provides for the transfer to Government on the one hand of the interests of the Corporation in the buildings and sites in the use and occupation of the City Police, and for the transfer to the Corporation on the other hand of the interests of Government in the public vaccine-stations in the City and of the interests of Government in the Queen's Statue and in the Victoria and Albert Museum. It is at the same time proposed to take the opportunity to record an agreement arrived at between Government and the Corporation by which the latter will receive the nett proceeds of certain fees under Bombay Act No. VI of 1863 (Public Conveyances), the City of Bombay Police Act 1902, and the Bombay Motor Vehicles Act 1904.'

Certain debatable points still required consideration, and it was agreed that these should be threshed out in the Select Committee. Sweet reasonableness marked the attitude of the representatives of either side in the Committee. They were all determined to see the end of the vexatious controversy, by working on the principle of give and take, and the Bill, as amended by that Committee, was passed by the Council on 1st November 1907 without a single dissentient voice.

It was an occasion on which the mover of the Bill, Sir Steyning Edgerley, and other members of the Council warmly congratulated Pherozeshah Mehta, the hero of all the battles fought by the Corporation for an equitable adjustment of the Police charges. 'He has been connected with the question, I think, for very nearly forty years,' observed Sir Steyning, 'and I think it must be a source of great gratification to him to see a conclusion of the matter arrived at which he is enabled to endorse.' In endorsing the arrangement Pherozeshah took the opportunity to meet cautiously the objections raised by the critics of the compromise.

'Your Excellency,' said he, 'it is always difficult to say, when exchanges of this sort are effected, who will be the ultimate gainer, because all these duties and functions are capable of indefinite extension and development. It is impossible to say exactly to what extent the cost of the Police may be increased within a certain time, or whether the cost of primary education as developed by the Corporation would keep pace with the Police increase or outrun it. It must be a question of give and take, leaving the exact state of things to the future. It is possible that at one time the cost of the Police might overrun the cost of the increase in that of primary education and medical relief, and it is possible that the exact opposite process might take place. But, on the whole, it is a suitable exchange, and the proper way to look at it is to see that the Government who have to deal with the personnel of the Police should bear its cost, while the Municipality who have to deal with sanitary arrangements, conservancy of the city and primary education should take the leading part in carrying out these important matters . . . . For my part I think it is a straightforward and honest arrangement of various liabilities between the Corporation and Government.'

This point was taken up again by Sir Steyning in replying to the debate and he neatly summed up the situation in words which deserve to be remembered in dealing with such controversies: 'With regard to what the Honourable Sir Pherozeshah has said, I may say

that I always dislike to be a prophet, but I do not mind on this occasion assuming the rôle for one purpose, and that is to forecast that whether the expenditure of the Government on Police outruns that of the Corporation on education and medical relief, or whether the expenditure of the Corporation outruns that of the Government, there is one thing certain and that is that *the ultimate gainer is the City of Bombay.*'

CHAPTER XXXI

THE STORY OF THE SCHOOL BOARD

In the beginning of the nineteenth century India was just awakening from the stupor of ignorance. In a few nooks and corners the lamp of knowledge burned dimly, but elsewhere ruled Cimmerian darkness. Government had not then considered it their duty to minister to the intellectual wants of the people. What could have been the reason for such neglect of one of the primary duties of the State?

Was it because British statesmen had been engrossed for years in the work of consolidating the conquered territories and evolving a system of government suited to the conditions which then existed? Was it on that account that they had lost sight of their elementary duty and the simple lesson of history that the perils of ignorance of the multitude were more disastrous than the possibilities of internal rebellions or external aggressions? Surely they did not require to be told that a system of government, however efficient, may collapse like a house of cards if not rooted in popular appreciation and goodwill.

It is astonishing how slow, in some respects, the British nation has been in profiting by the example of others. Even after universal education had made rapid strides in Switzerland, Prussia and the United States of America, its advantages were not brought home to her for a very long time. No grant was made in England from public funds for education until the year 1834, no grant-in-aid towards the maintenance of voluntary

schools until 1846, and no Parliamentary education enactment of any real importance until 1870. Even then she might not have been stirred to action, had not the Prussian victories in the Franco-German war vividly demonstrated to the world the immense advantages of an educated rank and file and the awful handicap of leading an illiterate people to war. 'It was the schoolmaster,' remarked William Stead, when the Germans invaded France, 'as much as the needle-gun which was the source of their victory.' When we take these historic facts into consideration, when we recollect that England's educational policy, even towards her own people, was incredibly backward until the last quarter of the nineteenth century, we feel inclined to refuse to attribute any sinister motives to the British authorities in India for their neglect of the education of the masses.

We cannot, however, altogether ignore a factor which seems to have influenced for a while the policy of absolute inaction pursued in the days of the East India Company—the conflict between self-interest and duty, which is invariably involved in the dealings of advanced nations with the inhabitants of the backward countries in which they establish themselves. On the one hand it would be nothing short of sordid self-interest on their part and wilful disregard of the interests of humanity to withhold from the subject-races the benefits of education; on the other hand, if they once kindled the torch of knowledge in those dark regions, there would unquestionably be from day to day a demand for more light, until the day dawned when the subject people considered themselves to be the equals of their rulers and preceptors and resented the yoke of a foreign ascendancy. It seems these considerations were not altogether absent from the minds of the authorities in the early days of British rule. Be it, however, said to the credit of the British nation

that it did not allow the sirens of self-interest to lure it from the path of duty. The conflict between interest and responsibility raged, no doubt, for some time, retarding the progress of the people for a good many years, but the ideals of British justice prevailed at last. We have it on record that the East India Company looked upon the efforts of the missionaries to open schools in India with grave misgivings. In the days of the Marquis of Hastings there was increased educational activity in the country on the part of the saintly souls who had come to the East to preach the word of God. The Board of Directors, therefore, warned their satrap that such activities were dangerous and might give rise to political aspirations dangerous to the rule of the Company. Lord Hastings, however, manfully replied that it would be a betrayal of national morality to perpetuate ignorance for the sake of sordid political considerations.[1]

This was the first official pronouncement in favour of the principle of educating the people of this country. Very little, however, was done by the State itself for the promotion of mass education. There was not a single Government school in the City until the middle of the eighteenth century. The thoughtful and benevolent missionary societies, of whom the pioneers in the field were the American Marathi Missions, and the Bombay Education Society, which was founded in the year 1815 for promoting the education of the poor, conducted a new school on western methods, and their work was supplemented by a few indigenous seminaries run by penurious *Puntojis* who held their classes on the verandahs of houses. Chairs and tables were unknown ; slates and pencils were novelties ; the student carried with him a portable *patti*, or wooden board, on which he traced the

[1] Joseph Chailley, *Administrative Problems of British India.*

letters of the alphabet and numerals with a reed pen dipped in chalky fluid, and which the teacher re-painted for him once a year during the *Diwali* holidays.

In August 1820, the Society formed a separate branch known as the Elphinstone Native Education Institution, the object of which was to prepare school-books in the vernacular languages and to aid and establish vernacular schools. It, however, found itself unequal to the task and decided, two years later, to confine its activities to the education of European and Eurasian children. The Elphinstone Native Education Institution thenceforth provided for the education of the Indian population, under the name of 'The Bombay Native School Book and School Society.' Although the prevailing official opinion was against western education Mountstuart Elphinstone warmly sympathized with the aspirations of a few enthusiastic Indians for promoting higher education among the people. The Society was established under his patronage and it soon rose to prominence. The first President of the Society was the enlightened Governor himself. The Vice-Presidents were the Chief Justice and three members of the Executive Council of the Governor. The Managing Committee was composed of twelve European and twelve Indian gentlemen, with one European, Captain Jervis, and one Hindu, Sadashiv Chhatre, as Joint Secretaries. No more solid foundation could have been laid for the advancement of learning and for the promotion of cordial understanding and goodwill between the rulers and the ruled.

In 1827 the Society came to be known as The Bombay Native Education Society. In that year Mountstuart Elphinstone relinquished the reins of office, and the princes and people of India raised large sums of money to perpetuate the memory of that distinguished administrator and sincere friend of the people by the

foundation of professorships for the higher education of the youths of the country. The college classes, which were accordingly opened, were amalgamated in the year 1840 with the school classes conducted by the Society, and the combined institution was named the Elphinstone Institution and placed under the control of a Board of Education. This Board consisted of a President, three European members appointed by Government and three Indian members appointed by the Native Education Society, which thenceforth merged its existence in the Board. The first members constituting the Board were J. W. Awdry, Bruce, Morris (Secretary to Government), Dr. J. McLennan (afterwards Physician-General in Bombay), Jagannath Shankarsett, Mahomed Ibrahim Makba and Jamsetjee Jejeebhoy. With the missionaries from Europe and America this Board shared the entire burden of education in the city down to the year 1855, when a separate Education Department was created consequent on the famous educational despatch of Sir Charles Wood.

Before we pass to the next landmark in the history of education in the city, let us grasp the fundamental considerations and principles underlying the educational policy of Mountstuart Elphinstone, considerations and principles which at this distant date appear to have been overlooked both by Government and their critics. In the famous minute which he indited on the reports which he had called for from the Commissioners and Collectors of the different districts and a Special Committee of the Bombay Native Schools and School Book Society he observed :

' It may be urged that if we raise the natives to an equality with ourselves by education and at the same time admit them to a share in their own government, it is not likely they will be content with the position assigned to them, or even rest until

they have made good their title to the whole. It cannot be denied that there is much ground for this apprehension, but I do not see that we are at all more secure on any other plan. If we endeavour to depress the natives, our Government may be overthrown by their resistance ; and such a catastrophe would be more disastrous and more disgraceful than that just supposed. Even if we succeeded in the attempt, our empire, being unconnected with the people, would be liable to be subverted either by foreign conquest or by the revolt of our descendants ; and it is better for our honour and interest, as well as for the welfare of mankind, that we should resign our power into the hands of the people for whose benefit it is entrusted, than it should be wrested from us by a rival nation, or claimed as a birth-right by a handful of creoles.'

In a letter written in June 1819 to Sir James Mackintosh, the renowned jurist and scholar, he again spoke out freely :

'I am afraid the belief that our Indian Empire will not be long-lived is reason and not prejudice. It is difficult to guess the death it may die ; but if it escapes the Russians and other foreign attacks, I think the seeds of its ruin will be found in the native army—a delicate and dangerous machine, which a little mismanagement may easily turn against us. The most desirable death for us to die of should be the improvement of the natives reaching such a pitch as would render it impossible for a foreign nation to retain the Government ; but this seems at an immeasurable distance. . . . . A time of separation must come ; and it is for our interest to have an early separation from a civilized people, rather than a violent rupture with a barbarous nation, in which it is probable that all our settlers and even our commerce would perish, along with all the institutions we had introduced into the country.'

These were not mere arm-chair speculations. They were convictions based on personal knowledge, insight and experience, which the sagacious statesman strove steadfastly to work up to in practical administration. His educational policy encountered no little opposition from

the members of his Council and from the Directors, but in spite of these difficulties remarkable strides were made in opening educational institutions in the Bombay Presidency. 'It is difficult to imagine,' wrote the Governor, 'an undertaking in which *our duty, our interest and our honour are more immediately concerned.*'

To return now to the memorable despatch of 1854. The principles of this announcement had been in many respects anticipated by the system of education introduced by the Board of Education under the guidance of its erudite and esteemed President, Erskine Perry. We are not for the present concerned with the steps taken by it to prepare the way for the establishment of an University in the City. We are concerned only with its activities for the promotion of primary education. There were at this time only six Government Vernacular schools attended by 560 pupils and costing Rs. 3,900 a year. A good many private schools, however, were maintained by the missionaries and the different communities, including nine vernacular free schools for girls, supported by the Students' Literary and Scientific Society founded in 1848 under the leadership of Professor Patton of the Elphinstone College. In short, under the system of primary education introduced by the Board of Education, the schools were administered by the State, but were mainly supported by the people themselves. Herein lay the germ of the later local-fund school system.

In the Despatch of 1854 the Board of Directors recognized that among the other subjects of importance none could have a stronger claim on their attention than that of education. 'It is one of our most sacred duties,' they observed, to be the means, as far as in us lies, of conferring upon the natives of India those vast moral and material blessings which flow from the general diffusion of useful knowledge, and which India may, under

Providence, derive from her connection with England.' For the attainment of this object they prescribed the following measures :—

(1) The constitution of a Department of Public Instruction ;

(2) The foundation of Universities at the Presidency Towns ;

(3) The establishment of training schools for teachers ;

(4) The maintenance of the existing Government Colleges and Schools of a higher order and the increase of their number when necessary ;

(5) Increased attention to all forms of vernacular schools ; and

(6) The introduction of a system of grants-in-aid, which should foster a spirit of reliance upon local taxation, and should, in course of time, render it possible to close or transfer to the management of local bodies many of the existing institutions.

The Despatch thus anticipated the ultimate transference of primary education to local bodies as one of their obligatory duties. In pursuance of the orders passed by the Government of India, the Department of Public Instruction was formed in Bombay in the middle of the year 1855, with C. J. Erskine as its first Director and Dr. Harkness, Principal of the Elphinstone College, as first Educational Inspector of the Presidency. For the inspection of the vernacular schools in the island a Deputy Educational Inspector was appointed, the first incumbent of the office being Vishwanath Mandlik, who subsequently distinguished himself in the service of the city as one of the most prominent members of the Municipal Corporation.

The diffusion of primary education on the partially self-supporting system was continued by the Department of Public Instruction until the middle of the year 1858, when the Government of India called attention to the fact that that practice was inconsistent with the terms of the Despatch of 1854, which required that the educa-

tion of the people should be stimulated by a system of grant-in-aid. In reply the Government of Bombay pointed out that the system of partial self-support was practically the same as the grant-in-aid system, the only difference being that under such an arrangement Government assumed regular control over the appointments and actions of the masters, and thus afforded the public a substantial guarantee that their contributions would be properly utilized. The Supreme Government acquiesced in this view of the question, but ordered nevertheless that no new schools should be launched, without their consent, on the same principles. The result was that the Educational Department confined its activities to the consolidation and improvement of the institutions that already existed and refrained from opening new schools.

Primary education thus sustained a set-back until the year 1865, when the one-anna cess for local education and improvement was first levied. Sir Alexander Grant was then Director of Public Instruction. Local Committees were formed to promote the opening of new schools in various parts of the island[1] and with an increase in the general resources, good progress was made with the work of mass education. The one-anna cess, which was first levied as a voluntary rate, was made compulsory in 1869. The Bombay Municipality contributed Rs. 10,000 towards the expenses of the primary schools in the city in the year 1866. In the following year, however, the contribution had to be withdrawn as the Corporation were advised that the civic revenues could not legally be so applied.

The defect in the law was remedied by subsequent enactments. The Municipal Acts of 1872 and 1878 made it lawful for the Municipality to defray 'such portion of

[1] General Administration Report, 1865–66.

the cost of providing public instruction within the limits of the city,' as the Corporation might think fit, after consideration of the representations of the Director of Public Instruction, by whom estimates were to be submitted annually to the Corporation through the Municipal Commissioner. An annual grant of Rs. 10,000 represents the degree of interest taken by the Corporation in the question of elementary education. Neither the Government nor the Corporation were inclined to accelerate the pace of progress in that direction. The discussion that took place when the Budget Estimates of the Corporation for the year 1878 were under consideration, throws a lurid light on the narrow and bigoted ideas which then prevailed. T. B. Kirkham moved on 9th November 1877, that the usual grant of Rs. 10,000 for primary education be increased to Rs. 15,000. To this the redoubtable Dr. Blaney moved an amendment raising the amount to Rs. 20,000, 'on the distinct understanding that Rs. 5,000 be applied to the object of female education.' The House was not, however, prepared to vote even that modest amount for educating the women of the city, whose condition in those days was little better than that of chattels. The champions of female education demanded a poll, when the numbers were fifteen for and twenty-one against the proposal! Nevertheless, the decade between 1872 and 1882 showed that the progress made in the education of the population was not quite insignificant. The percentage of the male population under instruction had risen from 5·0 to 7·06, and of the female population from 1·8 to 2·8, while the proportion of educated men and women had risen respectively from 17·5 to 24·9 and from 4·0 to 6·3. This result was mainly due to the opening of new schools.

In the year 1882 Government appointed an Education Commission to inquire into the working of the

prevalent system of public instruction and into the further extension of that system on a popular basis. The principal recommendations of the Commission may be summarized as follows : The system of payment by results should not be applied to colleges, which should obtain aid on other considerations ; secondary schools should be established by the State on the grant-in-aid system; primary education should have an exclusive claim on Municipal and local funds ; the grant by results should be raised for both boys' and girls' schools ; the maximum rate of Government aid which they fixed at one-half the entire expenditure of an institution, should be allotted only to primary schools, girls' schools and normal schools.

So far as the City of Bombay was concerned, the most notable result of the Commission's labours was the constitution of a Joint Schools Committee for the management and control of primary education. In pursuance of the Commission's recommendations Government proposed to transfer the charge of primary education to the Corporation. Consistently with their traditional procedure the Corporation referred the proposal to a Committee and this Committee was subsequently requested to submit a detailed scheme for the constitution of a School Board for the administration of primary education in the city. Several reports were submitted by the Committee and several references were made to Government. At last, in the year 1884 Government accepted the views of the Corporation as set forth in their Committee's report. A draft agreement was prepared, transferring from Government to the Corporation the management and administration of primary schools in the city ; but when all arrangements were practically complete for the installation of the new School Board, it was discovered that the Municipality

was not legally competent to undertake charge of primary education.

In the circumstances nothing could be done until the Municipal Act was amended. Act III of 1888 made it obligatory on the Corporation to maintain, aid and suitably accommodate schools for primary education, and created a school-fund to which were to be carried every year every grant made by Government for the maintenance or aid of primary education, the fees levied in schools wholly maintained at the cost of the school-fund, and such contribution from the general revenue of the Corporation as they should from time to time determine, the same being not less, in each official year, than a sum of such amount as added to the fees levied as aforesaid in the same year, would be equal to double the Government grant for that year. For the administration of this fund and for giving effect to the clauses relating to primary education, the Act made it obligatory on the Corporation and Government to appoint four members apiece to a Joint Schools Committee. By-laws defining the Committee's duties and powers were framed and sanctioned by Government and on the 1st January 1890 all primary schools in Bombay, together with appliances as well as the balance of the Presidency Education Fund, composed of school-fees, Government grants and Municipal contributions, were handed over by Government to the Corporation. Among the Government schools transferred to them were eleven girls' schools and six second-grade Anglo-vernacular schools, to which they added in 1893–94 an Anglo-Gujarati school at Null Bazar. In consideration of the work of inspection of primary schools, the Committee received from Government the annual sum which Government had budgeted for the purpose, before the transfer took place, and were further allowed to utilize the services of

the two Government officials who had previously acted as Deputy Inspectors of the Marathi and Gujarati schools.

The next landmark in the history of primary education in the city is the Police Charges Act of 1907, to which reference has been made in the preceding chapter. This Act gave full control of primary education to the Corporation. The Joint Schools Committee under the Act of 1888 became the Schools Committee of the Corporation, and the Section relating to the special school fund was deleted. The Schools Committee was required to 'provide out of the sum placed at its disposal by the Corporation for the accommodation and maintenance of primary schools which at any time vest wholly or partly in the Corporation and for otherwise aiding primary education.' A separate arrangement had been entered into with Government in regard to a scheme for the construction of school-buildings, whereby Government had undertaken to contribute half the amount of the cost estimated at ten lakhs of rupees. In order that the provisions of the new Act might not deprive the Corporation of the benefit of the grant-in-aid code for the time being in force, the representatives of the Corporation on the Council secured the insertion of a proviso in Clause (q) of Section 61 of the Act to the effect that the provisions of the Act which made the Corporation solely responsible for maintaining, aiding and accommodating schools for primary education were 'subject always to the grants of building grants by Government in accordance with the Government Grant-in-aid Code for the time being in force.' The following new provisions were also introduced in the Act :—

'If at any time by or at the instance of Government, primary education shall be made free, or free and compulsory, in the city, then a grant amounting to one-third of the difference between the cost thereafter annually incurred by the Corporation

in maintaining and aiding primary schools and the cost so incurred in the period of twelve months immediately preceding the day on which such measure comes into effect shall be paid annually to the Corporation by Government; provided that should there at any time be a change in the general policy of Government in regard to their liability in respect of primary education, the Corporation shall be entitled to benefit by such change in policy to the same extent as other city Municipalities in regard to any increase in expenditure involved in the adoption of such policy.'

What, made the Legislature anticipate the introduction of free and compulsory primary education in the city? The question was first mooted in the Legislative Council by Sir Ibrahim Rahimtoola in the year 1902. 'The time is coming', he said, 'if it has not come already, when Government will have to seriously think of making primary education free and compulsory'. He suggested that a beginning be made with the City of Bombay. For three successive years he pressed the demand and asked that at least as an experimental measure free and compulsory primary education might be introduced in one of the wards of the city. He also raised a debate on the question in the Municipal Corporation and asked for the appointment of a committee to report on the best means of introducing free and compulsory primary education in the city. As the result of these discussions a strong and representative Committee was appointed by Government in July 1906 to investigate the question of furthering the spread of primary education in Bombay.

After exhaustive inquiry in which Dr. Selby, the Director of Public Instruction, took a leading part, the Committee came to the conclusion that the time had not come for the introduction of compulsory education in the City. It was in its opinion neither necessary nor desirable. The backward state of education among the bulk

SIR IBRAHIM RAHIMTOOLA

Who initiated the question of introduction of free and compulsory education in Bombay.

of the Hindu and Mahomedan population of the city rendered it undesirable that compulsion should be resorted to, and the Committee felt that it would involve numberless prosecutions and cause endless friction between Government and the people. Nor was the Committee in favour of remission of fees. The only exception it made was in the case of the depressed classes, for whom it advocated an increased number of free schools. The Committee believed that there was a strong desire on the part of parents to give some degree of education to their children and a willingness to pay the moderate fees demanded, and that the principal reason why a large number of children did not attend school was want of school accommodation. It was, therefore, necessary to open schools, so far as the Municipal finances permitted, where the Schools Committee found there was a demand. The Committee considered that there was a very great need for additional trained teachers and recommended that a training college might be established in Bombay by Government, the stipends of the students being paid by the Municipality and other expenditure being met from Government funds.

Dr. Selby carried everyone with him except the Chairman of the Schools Committee, Sir Chimanlal Setalvad, who in a minute of dissent urged that the time *had* come for making primary education compulsory in Bombay. He did not see why a measure of compulsion wisely worked should lead to any misunderstanding or friction. Provided the period during which every child must be sent to school was so fixed 'as not to seriously affect his utility as a wage-earning asset of the family,' there was no need to apprehend that compulsion would cause any resentment or opposition.

Owing to absence from India, Sir Ibrahim Rahimtoola, another advocate of free and compulsory education, was

not able to take part in the Committee's proceedings at the final stage, but he had his say when the report was placed before the Corporation in February 1909. To the motion for recording the report proposed by Pherozeshah Mehta, he moved an amendment to refer the question to a fresh Committee composed of members of the Corporation. In the course of debate Pherozeshah quickly realized that it would be folly to attempt to stem the tide of popular opinion in favour of the rapid extension of primary education and he modified his proposition to suit the wishes of the younger generation of the members. Thus the question was again referred to a Committee to be considered *de novo*.

Whatever may be urged against the Committees of the Corporation, they may safely claim credit for never being in a hurry to rush to conclusions. The new Committee promptly drew up its questionnaire and asked the Schools Committee to report on the whole question of the extension of primary education in the city, but by the time the report was received, outlining a scheme for accelerating the pace of progress by the adoption of a programme to provide twenty-five new schools per annum, the ardour of the enthusiasts appeared to have cooled down considerably. This report was received in May 1909, but till May 1911 not a single meeting of the Committee was called to consider it.

Thus matters stood when Gopal Krishna Gokhale introduced in the Council of the Governor-General of India his Bill to make better provision for the extension of elementary education in the country. The Bill came before the Corporation for opinion and was referred on 4th May 1911 to the same Committee for report. Now ensued a struggle which threatened to undermine the position of unchallenged supremacy that had been tacitly conceded to Pherozeshah Mehta whenever the

Corporation had to deal with legislative measures of such far-reaching importance. He was then President of the Corporation and *ex officio* Chairman of the Committee. At his instance the Committee recommended that Government should be informed that the Corporation approved of the principle that primary education should be free and compulsory; that they were in favour of the ultimate introduction of the principle throughout the country but that they did not approve of the proposed methods advanced for carrying out the object in view. The Bill sought to empower every municipality or local government, with the previous sanction of the Local Government, to introduce compulsory and partially free education in its area and to levy a special education rate for that purpose, power being given to the Governor-General in Council to make rules prescribing the proportions in which the cost should be divided between the Municipality and the Local Board and Government. The Corporation were of opinion that such a procedure was not likely to attain the object in view. They considered that the great need of the country then was a strenuous acceleration of the policy of Government to push primary education as rapidly as possible and to adopt a definite policy by which the number of schools could be increased from year to year within a definite period and thus pave the way for the proposed measure. They also disapproved of the way in which it was proposed to distribute the burden of taxation which, they feared, would be unjust and unequal in its incidence on different parts of the country or province. They also feared that the initiative left to the District Local Boards and to some extent to the smaller Municipalities would work spasmodically, unsatisfactorily and unequally, and would in practice be without any real guarantee of the desire and willingness of the people to

be taxed. Further, the system of voluntary notification embodied in the Bill was not likely to be adopted to any very large extent and the Corporation were of opinion that the probable result would be that on the one hand it would not serve to hasten the pace of introduction of compulsory education and on the other Government might be induced to relax their efforts in that direction on the plea that people to whom it was left to take the initiative in the matter did not desire it.

Such were the main objections of Pherozeshah Mehta and the majority of the Committee, who voted with him, to the Bill. There were, however, powerful dissentients, headed by Sir Ibrahim Rahimtoola who declared that he had been for years a strong advocate of the introduction of the principle of compulsion in the matter of elementary education, and that any measure which had for its object the gradual application of that principle had his warmest support. When the report was before the Corporation, he moved an amendment, seconded by Mr. J. B. Petit, a devout disciple of Gokhale, approving of the principle underlying the Bill, subject to certain modifications. The amendment was fought to a division with the result that it was lost, there being 20 votes for it and 28 against it.

The defeat in the Corporation was a prelude to the defeat of the Bill in the Council. In July 1916, however, the question was revived. The Corporation called for proposals from the Schools Committee for the further extension of primary education in the City. The Committee outlined a programme of activities for ten years which was a very sensible and desirable preliminary to the introduction of compulsory education. The scheme was to provide for the progressive expansion and improvement of elementary education for ten years, culminating with the introduction of free and compul-

sory education in the city in the eleventh year. The budgeted estimate for the expenditure on primary education for the year 1917–18 was Rs. 6,58,000. It was proposed under the scheme that there should be a yearly increase over this sum of Rs. 12,500 with an addition of Rs. 5,40,000 in the eleventh year, the total thus reaching in that year (the year of introduction of compulsory education) to Rs. 25,00,000. The scheme was forwarded to Government in December 1917, with the benedictions of the Corporation and their prayer that Government would be pleased to agree to pay one-third of the additional expenditure.

To this communication a very graceful reply was received from Government on 29th November 1918, but by a strange irony of fate it subsequently became a source of contention and led to acrimonious disputes and threats of litigation seldom heard of in the history of the Corporation's relations with Government. The reply pointed out that the Corporation was not entitled to ask Government to contribute towards the enhanced cost.

'Any financial assistance that may be given by Government,' observed the Secretary to Government, 'should rest not so much upon the proposals of the Corporation to apply the principles of free and compulsory primary education in the not very near future as upon the more general ground that a point has been reached at which primary education in the City of Bombay can no longer be developed in a manner befitting the chief City in India without substantial contribution from the Provincial Revenues.

. . The proposal, therefore, that I am directed to place before you for consideration is that the Corporation should, as proposed in its representation, continue to bear the whole of the cost of primary education up to the limit of the net budgeted expenditure during the year 1917–18 and that all additional expenditure should be shared equally between Government and Corporation. .

. . Assuming the correctness of the estimate containing the Corporation's representation, the result of this decision would be that while a grant of Rs. 6 lakhs per annum has been asked for

at the end of the ten years' period, the actual grant to be given will amount to Rs. 9 lakhs.'

The Corporation were profuse in their acknowledgment of the 'liberal offer' and acting on that understanding they entered upon an ambitious scheme for extension of education. In view of the Government's altered policy it was unnecessary to retain Section 62B of the Municipal Act introduced by the Police Charges Act. By Section 20 of the City of Bombay Education Act XV of 1920, which was passed to facilitate and accelerate progress towards Free and Compulsory Education, the following section was substituted in lieu of that section: 'If there should be at any time a change in the general policy of Government in regard to their liability in respect of primary education, the Corporation shall be entitled to benefit by such change in policy to the same extent as a City Municipality.' The Act increased the number of members from 12[1] to 16, the additional 4 to be elected from outside the Corporation and 2 of them to be women. It also provided for the introduction of compulsion ward by ward for males only or for both males and females.

The Schools Committee then drew up a programme under the new Act for the introduction of free and compulsory education within 3 years throughout the whole City, commencing with the year 1922–23. This programme was adopted by the Corporation, and they selected F & G wards of the city to launch the scheme.

In accordance with the agreement contributions were received from Government for three years. The Corporation's claim for the year 1922–23 was Rs. 6,43,880. Government, however, paid only Rs. 4,41,833 and stated that the essential basis of the

[1] The number had already been increased from 8 to 12 by Act 6 of 1916.

agreement was the estimate of the scheme submitted to Government under the President's letter of 21st December 1917, so that the Government share was to be a progressively increasing one—half of Rs. 1,25,000 the anticipated annual increase for ten years with Rs.2,70,000 extra in the eleventh year, total Rs. 6,25,000 plus Rs. 2,70,000 or say, Rs. 9 lakhs and no more. They complained for the first time that the original estimates were being largely exceeded and that the cost at the end of the eleven years' period was calculated to rise to Rs. 55 lakhs. Moreover, they pointed out that whilst the expenditure had grown, the promised extension had not been realized. They did not, however, wish to see a deadlock and invited the Corporation to nominate three representatives to confer with Government on the subject in order to arrive at some working solution.

During the discussions that followed Government firmly maintained the view that they were not liable to contribute beyond the original estimate. As a matter of grace they offered to pay something more, but on the question of contractual liability to pay the amount required by the Corporation they were adamant. Meanwhile Act IV of 1923 to provide for compulsory education and to make better provision for the management and control of primary education in the Bombay Presidency was passed. Section 13 of this Act definitely provided that Government should bear half the additional recurring and non-recurring annual cost on the sanction by Government of a compulsory education scheme, but that the liability of Government *should not exceed in the case of a City Municipality one half of the cost as estimated by the authority*. The Corporation were not, however, content to get a subvention from Government under this Act. The agreement of 1919 placed them in a better position and they were determined to have their pound of flesh.

Although the attitude of the Corporation might have appeared to Government to be unreasonable, they sent a very conciliatory letter to the Corporation on 21st February 1924, breathing paternal regard and evincing earnest anxiety to end the controversy. They pointed out that they had paid Rs. 749,500 in excess of the forecast of 1918, that they were willing to go even further and to bring their total contributions for the preceding five years up to one-half the total admissible expenditure by the Corporation on the original scheme, and to continue to contribute in future on the same basis up to the maximum extent of the liability which they had voluntarily undertaken. They recognized, moreover, that since the date of the original agreement or arrangement there had been further developments in their general policy, regarding their share in the cost of extending primary education, and that the Corporation were entitled to share in the benefits of that development. Despite past arrangements they were prepared to treat the Corporation on exactly the same footing as other City Municipalities, that is to say, they accepted liability in future for contributing up to one-half the additional cost of introducing and maintaining a system of compulsory education in the City. It was obvious, however, that Government must retain, for the protection of the general revenues on which a very heavy liability was thus laid, the right of exercising some amount of supervision and control, similar to that retained by Government in the case of other City Municipalities. 'It is necessary,' they explained, 'for Government to be satisfied in the case of the Corporation and of City Municipalities alike, as to the manner in which grants are being extended, and as to the adequacy of the audit and other account checks imposed.' The offers contained in the letter were, therefore, conditioned upon agreement being arrived at between Government and the Corpora-

tion as to the nature of the control and the manner in which it could best be exercised.

Adequacy of audit and account checks! It seemed to those who knew how accounts were kept and audited in the Municipality, at least to the writer, that ever since the Act of 1888, Government had been under the blissful illusion that the financial administration of the Municipality left nothing to be desired, and that if any self-governing institution in the world could be trusted to spend the moneys of the local, as well as the general, tax-payer, unrestrained by account checks and outside audit, it was the Corporation of Bombay! Little did they realize that by such relaxation of control they were putting temptations in the way of their pet child to break through the established methods of accounts. Even when they seemed to have had a rude awakening during this controversy, they remained apparently unaware of the manner in which the Schools Committee had spent the large sums of money at their disposal. Of all the departments of the Municipality the Schools Committee's office was the only one whose accounts were not subjected to the pre-audit of the Chief Accountant or to the daily post-audit of the Municipal Auditors. There was supposed to be an internal audit, but nobody cared to ask what importance could be attached to the audit of a spending department by itself. The Municipal Auditors examined the Schools Committee's accounts once in a year in connexion with their annual report. Even during such cursory scrutinies they discovered much to find fault with, but their objections and suggestions remained unheeded. All this and much more could Government have urged in support of the general powers of supervision and control which they wished to reserve for themselves.

The Government letter was indeed the most gentle

and most conciliatory that any local body could have hoped to receive in the circumstances above stated. But, as in the case of other Municipalities so in the case of Bombay, the relations of Government with the Corporation were in those days considerably strained though not to the same extent as in other parts of the country. When, therefore, this communication came up for consideration, several members released a flood of bitter eloquence and the Corporation declined to accept the olive branch and decided to take legal proceedings for the enforcement of their claims. The opinion of Counsel was in their favour. According to this opinion a binding contract had been arrived at between the Corporation and Government and 'whether or not an obligation initially existed on the part of the Government to make the contribution, the Corporation having acted on the promise of Government, the arrangement became an enforceable contract between the parties.' Counsel, however, called attention to the fact that apart from legal rights Government, when they had made the promise, were acting on certain estimates which had been far exceeded. 'In view of the fact,' they observed, 'that Government acted liberally towards the Corporation in promising them one-half of the additional expenditure when the Corporation had asked only for one-third as well as the attitude of Government as shown by their letter of the 21st February 1924, we think, that the Corporation and the Government ought to come to a reasonable understanding regarding the voice that the Government desire in the regulation of free and compulsory primary education in the City of Bombay.'

Sage advice such as this might have prevented further unpleasantness, but the Corporation preferred to adopt a defiant attitude and informed Government in August 1924, that they had been advised

to institute legal proceedings to enforce their claim, and that they intended to do so unless Government were prepared to undertake their liability under the terms of the agreement of 1919. However, no proceedings have yet been filed and it is hoped that an understanding will now be arrived at whereby the traditional relations of harmony between Government and the Corporation will be restored.[1]

[1] A suit has since been filed.

CHAPTER XXXII

DEMOCRATIZING THE CORPORATION

IN our survey of the history of the Municipal Constitution of Bombay, we have rambled far from the landmarks of Act III of 1888. We have passed several milestones and signposts indicating reforms, but the one which, in view of the reputation of Bombay for intelligent and virile citizenship, we should have expected to reach much earlier, namely, the extension of the franchise to householders, has been the last to appear. Not that the principle was new to the people; it had been recognized early enough and the rate-paying interests were enfranchised more than fifty years ago. The rates were then levied direct from the tenants who obtained the right to vote at Municipal elections. The system, however, did not work satisfactorily. The collection of taxes presented countless difficulties; numerous distress warrants had to be issued, and tenants and landlords were alike incensed. The primary responsibility for paying the property taxes was, therefore, transferred to the landlords as we have already seen.[1]

Martin Wood stigmatized this procedure as one of the most extraordinary devices that had been resorted to in order to obtain temporary evidence for the fiction that all the burdens of the place had been fastened upon a few thousand shoulders. The fiction, however, filched from the true rate-payer his most precious possession—his vote. The owner was merely the conduit-pipe through which the tenant's contribution towards the municipal revenues passed into the municipal coffers. Neverthe-

[1] Chapter XXIII.

less, he appropriated all the votes; and this highly anomalous state of affairs continued for a number of years. Even after the impetus given by Lord Ripon to local self-government in the country, the rate-payer tolerated without a murmur this flagrant piece of injustice. The Act of 1888, which was believed to be a pattern of local legislation, did not cure the constitution of this fundamental defect.

That enactment, no doubt, somewhat broadened the basis of representation by enfranchising the graduates of the Universities in British India or in the United Kingdom. But while this new constituency was useful as a leaven, it represented merely a fraction of the total number of rate-payers. The fact remained that the foremost self-governing body in India, charged with the good government of a city that claimed to be the second in the Empire, was elected on a franchise which could hardly be called popular. The property qualification was a survival of feudalism, a state of society in which almost all public rights were inextricably interwoven with the tenure of land and in which the whole governmental system—financial, military, judicial—was part of the law of private property. 'It is utterly impossible,' says Maitland,[1] 'to speak of our mediæval constitution except in terms of our mediæval land law.' The feudal system was extinct in England, but in India the 'mediæval constitution' lingered on. What, however, strikes the student of local legislation of the twentieth century as most astonishing is not so much the narrow basis of the constitution, as the absence of popular criticism or denunciation of such a type of constitution. The Municipal reformer of 1872 had fought valiantly for the recognition of the 'elective principle'

[1] *The Constitutional History of England.*

and secured the franchise for the rate-payers. Within a very short time, however, for administrative reasons the true rate-payers were deprived of their votes; the reformers of the time acquiesced and so did the rate-payers.

This supine attitude on the part of the people throws a lurid sidelight on their conception of the duties and prerogatives of citizenship. Loud as were the lamentations often poured into the public ear by the critics of municipal administration concerning the inefficiency of the machinery of government or the ineptitude of councillors, not a whisper was heard that notwithstanding the loud talk of municipal reformers the municipal government of the City could scarcely be called a government of the people by the people. It was obvious that while public spirit was not altogether dead, while a section of the people was intelligent enough to demand a high standard of Municipal efficiency, the bulk of the population had not yet developed a civic conscience. It was all very well for casual observers to admire the growth of civic government in Bombay, it was all very well for Governors and Viceroys receiving addresses from the Corporation, in the name and on behalf of the citizens of Bombay, to compliment the city on the distinction, earned by the achievements of her citizens, of being *urbs prima in Indis*; a student of comparative systems of local government would have seen in the fabric of the civic government of Bombay a good deal to provoke adverse comment and condemnation.

The populace was not yet stirred by civic impulses. Lack of interest, if not positive indifference, marked the attitude not only of the illiterate masses, but of a large section of the educated classes in matters municipal, particularly in the election of members of the Corporation. No effort was made to evoke a corporate personality in

which each resident should feel conscious of his share in the municipal government of the city. Election after election was held at which the contest for seats was not even as keen as in mofussil municipalities. At every ward election the number of candidates offering themselves for election was barely in excess of the number of seats allotted to each ward. Even those few rivals were often spirited away by the sitting members before the day of the contest. The withdrawal of their candidature invariably gave rise to scandals, and at times one heard disagreeable stories of the consideration paid or offered by the old stagers as well as the neophytes for a 'walk-over.'

More depressing still was the apathy of the voters as a class. On an occasion of such supreme importance to the municipal government of the city hardly ten per cent of the electorate took an intelligent interest in the elections or were keen on registering their votes. The rest had to be coaxed and cajoled to drive to the polling booth in conveyances provided by the candidates. It was an open secret that in certain wards, particularly in the B ward, a vote had to be paid for, not merely in the form of refreshments and free rides in hack victorias and motor cars, but also in hard cash. But despite all coaxing and allurements, nearly half the number of the voters did not care to exercise the franchise. The vote had no value in their eyes and they were entirely oblivious of the elementary obligations attaching to the franchise. No wonder the Corporation continued for years to be a close borough of landlords and capitalists. No wonder that even to the most friendly observer of the municipal life of Bombay, the citizens appeared woefully deficient in the essential qualities which mark the growth of a nation and its advancement along the path of self-government. The deliberative and

executive parts of the Municipal machinery worked well enough, but the constitutional part was absolutely antiquated and out-of-date, though not altogether obsolete, and stood in urgent need of overhauling. Yet the ratepayer slumbered on.

Under the Act of 1888 only house-owners and owners of carriages and horses assessed to the qualifying tax at the rate of not less than Rs. 30 per annum and graduates of Universities in British India or in the United Kingdom were entitled to vote at ward elections. Until the franchise was broadened, there was no hope of the population being trained in citizenship. It was thus a vicious circle. The cramped constitution was the cause of the apathy of the people and their apathy perpetuated the oligarchical system of election under which no more than one per cent of the population of the City enjoyed the municipal franchise. The credit of being the first to demand a reform in that direction belongs to Mr. Joseph Baptista, who was first returned to the Corporation in the year 1901. During the first four years of his membership many a debate had taken place, proving that there was some justification at least for the charge not infrequently laid at the door of the Corporation that it was a 'landlord Corporation.' Nearly half Bombay was owned by a handful of landlords, and as they could influence the municipal elections very materially, it was but natural that they should preponderate in that body in alliance with the owners of small properties.

In August 1905, Mr. Baptista gave a notice of motion for asking Government to move the legislature to amend the Municipal Act, so as to give a vote to every person who paid a rent of Rs. 25 per month. He probably thought the announcement of the proposed reform would make the house-holders dance with joy from Colaba to Mahim. It met, however, with so cold a reception that the

motion was withdrawn by him at a meeting of the Corporation held on 25th September 1905. Other motions to give the vote to rate-payers, subsequently brought forward by some Councillors, also failed to evoke popular interest or enlist the support of their colleagues on the Corporation. Mr. Baptista was, in the meanwhile, preparing for a flank attack on the all too powerful constituency of the propertied class who exercised such a dominating influence in and outside the Council Chamber. On 18th February 1907, he deftly tabled a resolution calling for a statement showing the number of persons primarily liable for the payment of property taxes leviable on land and building according to the scale of rateable valuations prepared by him. The statement furnished by the Commissioner revealed the fact that about 500 persons practically owned half Bombay. The rest owned properties assessed at less than Rs. 10,000 per annum. The total number of persons assessed to the property tax in 1907 was 12,000. This small section practically monopolized the franchise; the bulk of the population was voiceless.

After this strategic move followed a notice of motion given jointly by Messrs. Kazi Kabiruddin and Baptista for the appointment of a committee to suggest changes in the Municipal Election Law, especially in the constitution of the Corporation, in the qualifications of voters and in the extension of the franchise to occupiers and tenants, barristers, solicitors, physicians and surgeons and engineers not already qualified.

It was one of those Committees on whose portfolio was inscribed in letters of gold the time-honoured apothegm *Festina Lente.* Electoral reform in Bombay was overdue ; the election of sixteen members by the Justices was an anachronism ; so also was the nomination of another batch of sixteen councillors by Government an

archaic survival of the days of bureaucracy, altogether repugnant to the ideals of local autonomy. The Committee should rightly have proceeded post-haste to report that the time had come for a complete transformation of the constitution. Without elaborate enquiries and discussions it could have easily made out a case for immediate reform. In the dim old days the Justices represented a fair proportion of the intelligentsia of Bombay and had, therefore, enjoyed the sole privilege of managing the municipal affairs of the city. Even after the introduction of the elective principle in the constitution of the Municipality, they were allowed, together with Government, to return to the Corporation 50 per cent of the members, as the rate-payers then were, or at any rate appeared to be, still in their teens. The rate-payers had, however, since attained twice the statutory age of majority and were by no means so humble as to exclaim in the manner of Sādi, the Persian poet, that even at that age they had not emerged from the stage of infancy. Rather, they claimed that they had learnt enough in the school of local self-government to be able to manage their estate. There were some members of the Corporation, however, who doubted whether with age, and even with knowledge, full wisdom had come. The difficult question that the Committee had, therefore, to decide was how to redistribute the seats so as to emancipate the Corporation from the tutelage of Government, exercised directly through their nominees and the Chief Executive Officer, whom they had reserved the right to appoint, and indirectly through the representatives of the Justices, who were their nominees, and at the same time protect that body from being swamped by the masses, if the suffrage was extended indiscriminately.

The Justices were at one time regarded as the cream of Bombay society. Their constituency returned to the

Corporation from time to time men like Pherozeshah Mehta and no one had raised his voice against the electorate until the election of 1907 when the whole of Bombay was shocked and convulsed by a caucus formed by a few Justices, prominent amongst them being a few Government officials, to deal a crushing blow to Pherozeshah at the poll. Opinions will differ as to whether the abuses heaped indiscriminately on all those who participted in the movement were justified, but the conduct of those who abused their official powers and patronage in the obnoxious campaign agaist the popular hero cannot be too strongly condemned. Such a misuse of authority demoralizes the public life of a city and does incalculable harm to the cause of civic government and in this particular case the corrupter and the corrupted played a part which no casuistry can justifiy. This consideration should not, however, prejudice a critic of the cabal so completely as to make him ignore the simple moral to be drawn from that distressing episode in the history of the Corporation.

The position which Pherozeshah occupied in the Corporation was without a parallel in the whole of India. What Gladstone was to the Liberal party, what Chamberlain was to the Corporation of Birmingham, Pherozeshah was to a large extent to the Bombay Corporation, but with this difference that the ascendancy enjoyed by the first two over their colleagues paled into insignificance before the supremacy enjoyed by Pherozeshah. Towering head and shoulders above his colleagues, he stood at the zenith of his power in those days. No one could hope to carry anything in face of his opposition, no one could aspire to any position of dignity or distinction in the Corporation without his support. This power was reflected in the titles by which he was known—'the uncrowned king of the Corporation,' 'the kingmaker,'

'the dictator.' To give some idea of the immense influence he thus wielded in the Corporation Hall and the homage he received, we may apply to him what Johnson said of Wolsey. In full-blown dignity he stood, 'law in his voice and fortune in his hand;' to him the councillors, elected and nominated, alike resigned their powers and through him shone the rays of the Corporation's bounty.

> 'Turn'd by his nod the stream of honours flows,
> 'His smile alone security bestows.'

Not only did he carry the day when present in the civic chamber, but even when absent from meetings his voice prevailed by means of messages sent from the heights of Matheran or Deolali, whither he repaired periodically for a change. Nay, to transact any important business during his absence was as inconceivable as to stage the play of Hamlet without the prince of Denmark. That man would be superhuman, indeed, whose ideals of liberty and democracy would not be affected by such hero-worship, and Pherozeshah, with all his greatness, was but human. True it is that he often earnestly appealed to his admirers not to spoil him by their hero-worship. True it is he persistently nipped in the bud proposals periodically put forward to vote testimonials and statues to him during his lifetime. Nevertheless, power he prized and was extremely jealous of his kingship and it must be admitted in the interest of truth and the moral that it conveys that it seemed even to some of his sincere friends and admirers who had the opportunity to watch him at close quarters, and of those the writer may claim to have been one, that as the inevitable result of the willing homage paid by his followers he grew at times impatient of criticism and imperious in his leadership, unmindful of the fact that the yoke of his ascendancy was

day after day becoming very galling to the executive and to a small but powerful section of the Corporation to whom such supremacy appeared to be nothing short of dictatorship. Indeed the one-man rule in the Corporation was at times reminiscent of Cæsarism, and towards the end of the year 1906 it was felt by some people that the progress of such absolutism in Bombay must be checked, not so much for what the local Cæsar had been, not so much for what he was, but for what he might still be. It would, therefore, be unfair to assume that every one of the Justices who took part in the caucus had a personal grudge against him or was actuated by spite or jealousy. It is not true that even for the time being his great and glorious services to the city were forgotten or underrated by those citizens who had enjoyed the privilege of working with him for years together in the service of the city but who felt constrained to range themselves against him in the interests of the very principle of free government for which he stood. Had it not been for the fact that the one-man rule was becoming more and more unbearable, had it not been for the conviction that such domination of an individual, howsoever talented and public-spirited, struck at the root of local self-government in the city, some at least of the caucus party would certainly have shrunk from taking any step likely to undermine his position in an institution to which he had dedicated his life with a fervour and self-sacrifice unique in the history of the city.

The 22nd February 1907 was a fateful day in the history of the Bombay Corporation. The much-talked-of Justices' election was held on that day amidst scenes of wild excitement. On one side were arrayed some of the most prominent Government officials and their followers, the most notable amongst them being F. C. Harrison, the Accountant-General, who officiated

as Commander-in-Chief of the caucus, the Collector of Bombay and the Commissioner of Police. There was also the masterful Municipal Commissioner, who, it was believed, rightly or wrongly, was skilfully pulling the wires from behind. The appointment of the Justices was in the gift of the three last-named officers, and what potent influence those J. P. makers were in a position to exercise over the election can be easily imagined. On the other side stood Pherozeshah Mehta and his party. All that he had given and could give to the electorate were his splendid talents and his magnificent services and passionate love for the city; he had no plums of office or titles to distribute as his opponents had. Thus unevenly matched, the combatants found themselves face to face at that critical juncture.

The Justices used to hold a formal meeting before proceeding to cast their votes. Gallant and guileless as he was, Pherozeshah proposed that Mr. (now Sir) William Sheppard, the Municipal Commissioner, should take the chair. Although the odds were against him, he was determined to fight like a soldier and a sportsman. It was a life and death struggle, but it ended, as apprehended, in the complete triumph of the caucus 'independents.' The lion was laid low for the time being. He stood seventeenth on the list. Of the successful sixteen the cabal claimed fifteen, the only outsider, who retained his independence, fought a 'straight fight' and succeeded in spite of the machinations of the caucus, being Sir Dinsha Petit.

The curtain now rises on the Small Causes Court where the results were challenged. It was not difficult for Pherozeshah's party to establish the fact that one of the caucus nominees who was declared elected, was a Municipal contractor and therefore disqualified. As he was the next candidate on the list, Pherozeshah was

declared elected. Even before the decision of the Court was given in his favour, his loyal lieutenent, Hari Sitaram Dikshit, had made room for him in the Corporation by resigning his seat, to which he had been elected by the rate-payers of the Girgaon Ward.

This, however, was not a matter of discomfiture for the caucus. In fact, the promoters of the movement were aware that he was sure to return to the scene of his life-long labours through one of many avenues. Providence had linked his destiny with the Corporation till the last day of his life and no one could ever have ventured to hope, even if he had desired, to sever the bond. All that his opponents could have hoped to achieve by defeating him at the poll was to remind him that absolutism was incompatible with the principles of a deliberative assembly and that there was no place for a dictator, howsoever brilliant and adroit, in a self-governing institution such as the Corporation. Whatever differences of opinion might have existed and may still exist as to the means adopted by them to drive that lesson home to him, or as to the part played by certain individuals in the tussle, it must be recognized that the reminder was not quite uncalled for, and that it had a salutary effect on all concerned. Pherozeshah himself was not slow to profit by the experience. It redounds not a little to the credit of the crippled general that even in the caucus Corporation he soon rehabilitated his position. Calm soon followed the storm and once more the Corporation looked up to him as the leader of the House.

After this episode, however, the Justices' constituency stank in the nostrils of the citizens of Bombay, whose consternation and indignation at the humiliation of their idol knew no bounds. The whole of Bombay flared up into a genuine little revolt against an electorate

which had thus insulted Bombay's foremost citizen. There was a popular outcry against the constituency and the Committee of the Corporation found it by no means easy to decide whether it should be ended or mended. There were many, however, who cried 'Hands off.' They apprehended disastrous consequences if that constituency was abolished or atrophied. They also strongly resisted the proposal to reduce the number of Government nominees on the Corporation. It would have been uncharitable to attribute interested motives to those who harboured such fears, but their objections were brushed aside on the ground that the acceptance of the proposed reforms meant for several of them the signing of their death warrant. The battle raged long and furiously; meanwhile the main issue became mixed up with the questions of improvement of the electoral law, the preparation of the election roll, and the conduct of elections, which were brought into prominence by certain malpractices which prevailed at the Municipal election of 1910.

Three more years rolled by; nothing was done. Another election was held. If we accept the assurance of the Municipal Commissioner of that date, Mr. P. R. Cadell, the greatest possible care was taken to avoid the abuses witnessed in the course of the previous elections. There could be no doubt that under the keen supervision and guidance of that argus-eyed Commissioner to whom no detail, however trivial, was unimportant or uninteresting, the Municipal authorities responsible for the conduct of elections took all possible precautions to detect and check the frauds which the Commissioner was anxious to prevent. But, observed the Commissioner in a letter to the Corporation, dated the 26th May 1913, 'although the circumstances of the election in most of the Wards were not such as to offer any great tempta-

tion for such abuses, which also the great majority of the candidates were most scrupulous in preventing, yet they were found to exist in the same Ward (the notorious B Ward) in which they were so prevalent in 1910. A suit in the Small Causes Court followed which resulted in one of the elected members being unseated after a revelation of practices which can be called discreditable to the manner in which it is possible to elect a member of the Municipality.'

Important changes were proposed in the Electoral Law and they were referred to the same Committee. The Municipal executive, members of the Corporation, individual citizens and associations such as the Matunga Residents' Association and the Indian Chamber of Commerce, all submitted suggestions. These were duly considered by the Committee, but except a couple of reports on items of procedure requiring urgent attention, no communication of any importance touching the constitution of the Corporation emanated from it. Meanwhile, the recommendations of the Decentralization Commission, followed by the Government of India Resolution of 1915, and the still more emphatic reforms of 1919, introduced the policy of popularizing the constitution of local bodies and of broadening the franchise, with a view to enabling a much larger section of the public than before to take an active part in the administration of local affairs and to qualify themselves for self-government. Even before the proclamation of August 1917 a memorandum had been submitted by nineteen members of the Viceroy's Council on post-war reforms, in which they had asked that full measure of local self-government should be immediately granted and, probably following their lead, the Poona City Municipality had placed on record its deliberate opinion that members of all local self-governing bodies should be

elected by the people. The Committee of the Bombay Corporation could not, however, yet make up its mind as to the reforms best suited to the constitution of the premier self-governing institution in India, nor did the Corporation, constituted as it was, seem particularly anxious to move in the matter.

The rate-payers became restive. The debates of the Corporation and the agitation in the newspapers, led by Mr. Baptista, had at last awakened the public to a sense of the galling iniquity underlying a constitution under which out of a population of about 12,00,000 only 12,000 owners of houses enjoyed the Municipal franchise to the exclusion of the actual rate-payers. There were, at least, some individuals and associations that entered their protest against the system as being quite out of keeping with the educational and civic progress of the people. The spirit of the times demanded that the Municipal Corporation of Bombay should be a truly representative body elected by the suffrages of the rate-payers as a whole and not merely of a few influential sections and vested interests. But even this popular outcry failed to galvanize the Committee of the Corporation into action. It, however, touched a sympathetic chord in the heart of one of the members of the Executive Council of the Governor of Bombay, Sir Ibrahim Rahimtoola, who was then in charge of the Municipal portfolio. Acting on his advice, the Government of Bombay decided to take the initiative in the matter without waiting for a gesture from the Corporation. Before his elevation to the Executive Council Sir Ibrahim had, as a member of the Corporation, taken a prominent part in the proceedings of the Election Committee. He had seen how difficult it was to get the divergent elements in the Committee to agree to a working constitution in consonance with the requirements of the times. The best way of bringing matters to a head.

he thought, was to address a letter to the Corporation on behalf of Government and to put before them a definite scheme of extension of the municipal franchise and further development of local self-government in the city. In that letter, dated 3rd March 1919, the Corporation were asked whether they would agree to the number of councillors being increased from 72 to 100, 76 of whom were to be elected by the citizens, 20 to be nominated by Government, or at their discretion partly nominated and partly elected by such associations or public bodies as might be selected by them, and 4 co-opted by the selected members. They were also asked whether they would accept a monthly rental of at least Rs. 20 as the basis for the franchise proposed to be allowed to tenants.

Anxious as the Honourable Member was to introduce in the Legislative Council a Bill embodying the proposed reforms, the dilatory procedure of the Corporation rendered it impossible. That body would, however, have been false to its traditions, had it even at that late stage in the discussion of the question expressed an opinion without further sifting it in Committee. At one time the Committee had thought of suggesting a fifty-rupee franchise ; then there was a proposal to extend it to tenants assessed upon a rental of not less than Rs. 30 per mensem, and now Government had proposed a still lower franchise. After a good deal of deliberation and discussion the Corporation at last communicated to Government, in October 1919, their acquiescence in the proposal to enfranchise tenants paying the minimum rent of Rs. 20 per mensem. Meanwhile, however, the Montagu-Chelmsford Reforms had come into operation and under the ill-starred dyarchy introduced by the new constitution, Sir Ibrahim had to make over the portfolio of self-government to one of the ministers appointed by

Government, Khan Bahadur Shaikh Gulam Hussain Hidayatullah.

From this minister came another communication to the Corporation, stating that Government proposed to introduce a ten-rupee franchise instead of the twenty-rupee franchise previously proposed. The question had been discussed threadbare by the local parliament, but after further consideration in Committee the Corporation informed Government that they could not accept a limit lower than that of Rs. 20. It seemed to many to be a singularly uncompromising and unprogressive attitude for the foremost self-governing assembly in India to adopt. Under the reforms a ten-rupee franchise was adopted for the election of the Legislative Council of the Governor of Bombay, and if the object aimed at, according to the report on Indian Constitutional Reforms, was complete popular control of the local bodies, it stood to reason that the Municipal franchise should have been equally, if not more, liberal. Further correspondence ensued, and as Government wanted the proposed electoral reforms to come into operation in the year 1923, and as it was necessary that the Municipal roll should be prepared in October, 1922, the minister made a desperate effort early in the year to rush through the Legislative Council a Bill further to amend the Municipal Act of 1888.

The main object of the Bill, it was announced with a flourish of trumpets, was to reconstitute the Municipal Corporation of Bombay on a more democratic basis than before. Was there any element of democracy in the previous constitution that was not vitiated by the system of different franchises and nominations incorporated in it? That was a conundrum which, had it been propounded by any member of the Legislative Council, would have probably compelled the Œdipus, whose business it was in the Council to solve such riddles, to commit suicide. How-

ever, his equanimity whilst introducing the Bill, was not marred by any such untoward proceedings. He explained that the number of Municipal Councillors was to be raised from 72 to 100, of whom 76 would be elected, 4 would be co-opted by the elected members, and the remainder in part nominated by Government and in part elected by bodies of associations determined by Government. The number of Councillors on the Standing Committee had been raised from 12 to 16, and the number of elected Councillors on the Committee from 8 to 12, thus raising the elective element on the Standing Committee from two-thirds to three-fourths. The various franchises that existed under the Act of 1888 had been replaced by a uniform franchise, under which occupancy of a building separately occupied of a monthly rental value of Rs. 10 was to be the qualification for a vote.

This was the sum and substance of the much-vaunted democratic measure with which the citizens of Bombay were to be blest. No greater travesty of democratic principles could have been indulged in before the senators of the second city in the Empire. What prodigious reforms were here outlined, what elysian heights of democracy scaled by the apostles of local self-government! It was, indeed, very distressing to hear the supporters of the measure talking jubilantly of democracy, despite the system of nominations by Government which clung to the constitution and despite the appropriation by the Governor in Council of the power to appoint the Chief Executive Officer, who was independent of the Corporation in many respects. It would not surely have detracted in any way from the value of the reforms and it would have been more in consonance with truth had the minister been content to claim for the Bill that it marked a great step in advance and sought to emancipate

the rate-payers of Bombay from the domination of the privileged classes who had usurped the franchise. Mere broadening of the franchise can by no stretch of imagination or language be described as democratizing the Corporation whose constitution still remains a hybrid one—a strong tincture of bureaucracy diluted with a mild mixture of democracy.

Another important change contemplated by the Bill was the removal of the disqualification of women from membership of the Corporation. 'This,' said the minister with pardonable pride, 'is a unique step in the whole history of local self-government in India, and thus affords just cause for gratification.' But while it might have been a source of pride and pleasure to the minister to introduce the change by legislation, it was an eloquent commentary on the backward condition of India and on the unprogressive civic records of the premier city of the country during the thirty years and four that had elapsed since the constitution was settled by the Act under amendment! But to proceed. The Bill comprised several other provisions, the most agreeable of which for the Municipal employees related to the establishment of a provident fund for them, and the most disagreeable for the members of the Corporation was that which reduced the term of office of the then newly elected councillors from three years to one year, in order to introduce the new constitution before the year 1923.

In vain did the majority of members of the Corporation in the Council plead for the postponement of the consideration of the Bill to the July session of the Council, and failing that for caution before lowering the franchise indiscriminately. Among the mofussil members the so-called democratic measure found most willing and gallant champions. Rao Saheb Desai pointed out

that in the mofussil the franchise was only eight annas and that it was practically a universal franchise. 'Why should not Bombay be placed on the same footing?' 'Is Bombay,' he asked, 'educationally backward? Does Bombay lack those civic qualifications required for Municipal Boards?' Mr. S. K. Bole had also some very refreshing strictures to pass on the attitude taken up by the Corporation in the matter of the franchise, 'It was the Municipal Corporation of Bombay,' he said, 'who had delayed the measure, as some of the aristocratic members of that body did not like to have with them on the Corporation Rama, Ganu and Janu, on the ground that they were too ignorant to understand Municipal business. But I think, Sir, it was the duty of those very corporators to try and remove the illiteracy of the masses. They have not made any earnest efforts in this direction, as they want Rama and Ganu to be always Rama and Ganu, and not Ramchandrapant and Ganeshpant.' This was a neat home-thrust and the advocates of a higher franchise reeled under it.

A very good case might have been made out for the proposal to defer the measure to the following session, as in the hurry to have the elections on the reformed basis early in 1923 many practical difficulties had been overlooked. The question of redistribution of seats under the new constitution had not been examined. Then, there was the question whether, even if the Bill had been finally passed at the July session, it would have been possible for the Municipal Executive to prepare the roll by the first week of October. All these questions required consultation with, and the coöperation of, the Corporation, who might have refused to sanction funds for the preparation of the roll in anticipation of the Bill becoming law before October. If Government were so very anxious to see the Corporation reconstituted on the

proposed lines within a year, they should have foreseen those difficulties and met them betimes. But these real objections to the proposal to rush the Bill through the Council were obscured by the imaginary difficulties conjured up by the opponents of the ten-rupee franchise and by the class prejudices underlying the arguments on which they took their stand. These arguments recalled to one's mind the case of the Merionethshire County Magistrates who, in 1833, actually went on strike for a time, by way of protest against the appointment of a wealthy local land-owner, who had, within their recollection, kept a retail shop and who belonged to 'the Methodists.' Irrespective of religious differences they objected to that individual because 'his origin, his education, his connection, his early habits, occupation and station were not such as could entitle him to be the familiar associate of gentlemen.' A somewhat similar line of argument was taken up by some members of the Council and this, coupled with the sectional prejudices stirred up by the demand for the protection of minorities, vitiated the arguments for the postponement of the Bill. Its first reading was, therefore, agreed to and the first democratic measure before the first democratic Council was committed to a Select Committee.

The principal contentious point before the Select Committee was whether the franchise should be allowed to persons assessed upon a rental of Rs. 10. The majority were in favour of the ten-rupee franchise. The dissentients based their case on two grounds—the first that the Corporation had twice recommended the twenty-rupee franchise, and, the second that the interests of minorities would be jeopardized, should the lower and wider franchise be adopted. The majority of the Committee, however, endorsed the original proposal.

In the Council the minister in charge of the Bill laid much stress on the fact that although the Corporation as previously constituted had been averse to the franchise proposed, the Corporation as constituted in the year of grace 1922 were in favour of it. Were it not so, they would not have asked the Commissioner to take in hand the work of preparation of the electoral rolls on the basis of the ten-rupee franchise, at a considerable cost, in anticipation of the sanction of the Council. It showed, moreover, that they wanted to have the election early in the following year. Further, Government had received a number of memorials from various associations in support of the measure. As regards minorities, the minister urged that the voting strength of the various communities would be the same in the case of the ten as in that of the twenty-rupee franchise. Moreover, if any of the communities were not returned by election, their claims would be considered by Government who had retained a certain number of seats for nomination. The Bill had originally provided for the nomination of twenty members by Government; the Select Committee had reduced the number to 15 and provided for 5 members being returned by the Bombay Chamber of Commerce, the Indian Merchants' Chamber and Bureau, the Mill-owners' Association and two other bodies that Government might choose. The European and Parsi members of the Council, however, were not in a mood to lay such flattering unction to their soul. They scented disaster to minorities and pressed for the recommittal of the Bill to the Select Committee with a view to proper provision being made to give adequate representation to important minorities.

Thus was the axiomatic principle of civic franchise discussed on parochial lines in those days of democratic fervour. The bogey of mass domination and the spectre

of sectarian strife stalked the Council Chamber from one end to the other, scattering the patricians and plebeians in opposite directions. Reason appeared to have abdicated in favour of emotion, statesmanship in favour of clannishness, and it seemed as if the long-deferred measure would once more be tossed about between the Council and the Select Committee. At that critical stage rose to his feet that clear-headed councillor, Sir Ibrahim Rahimtoola, whose sound common sense and simple logic have often stemmed the engulfing tides of rhetoric and given a practical turn to many a debate in the Council Chamber and the Corporation Hall. He made it clear that he did not desire to take any definite line in regard to the debate, having himself suggested in the light of his long and intimate experience of municipal affairs, a twenty-rupee franchise only four years ago. He, however, placed in a nut-shell before the House the question at issue at that particular stage of the debate. ' Is it or is it not a fact,' he asked, ' that the consideration of this measure of advancing the city of Bombay in the direction of local self-government has been under consideration for a sufficiently long time, and, if it is, whether there are any points in the Select Committee's report which cannot be dealt with by the Council as a whole by means of amendments, and whether, if such points exist, they should refer the matter back to the Select Committee ?' After this lucid exposition of the question at issue, the amendment for recommitting the Bill to the Select Committee was negatived. It is not necessary for us to follow the debate in the Council in greater detail. The basis of franchise proposed was adopted, but at the instance of Mr. (now Sir) Cowasji Jehangir, who fought pluckily for it, the proposed constitution of the Corporation was modified so as to admit of ten members being co-opted

by the ninety-six members elected and nominated, as follows :—

76 councillors elected by ward elections ;
16 appointed by Government ;
4 elected—
1 by the Bombay Chamber of Commerce ;
1 by the Indian Merchants' Chamber and Bureau ;
1 by the Bombay Millowners' Association, and
1 by the Fellows of the Bombay University.

Some members of the Council thought co-option was another move to secure a representation for minorities, but Mr. Cowasji Jehangir assured the House that there was no attempt to get minorities represented on the Corporation by that device. The main object was 'to enable a few really good men to find seats on the Corporation regardless of their political views.' Why that reference to politics? Had the honourable member a premonition that mass suffrage spelt disaster to all except those holding extreme political views? No one, however, raised any such question. The problem that then engrossed the attention of the Council was the complicated mode of selection which was proposed. The amendment asked that the additional ten members should be co-opted by a single transferable vote. It was by no means a novel method of election for the Council. It had been tried by it in regard to certain elections, but scarcely any one seemed to have grasped the mathematical mysteries of it. It was a method which aimed at proportional representation, but many members doubted whether it was suitable for an election under the Municipal franchise. This gave the senior wrangler in the Council an opportunity for an excursion into the realms of the science of numbers. 'This method of transferable vote,' said Dr. Paranjpye, 'is the fairest method of electing people and stopping of abuses of a caucus or

anything else,' and he reminded the Council of the caucuses that had taken place before in the history of the Bombay Corporation. The mathematician, however, failed to carry conviction until Mr. B. C. Phalajani lucidly illustrated, by a concrete example, the advantages of the system.

Here we must conclude the account of the last phase of development of the constitution. The ministerial torch of democracy has, no doubt, illumined it considerably, but a more powerful illumination is needed to make it truly democratic. Meanwhile, the presence of women in the Council Chamber sheds fresh light on old questions. With the removal of the sex disqualification four gifted women entered the Corporation and gave abundant evidence of the fitness of their sex to assist in the deliberations of that body. No occasion has yet arisen to stir the emotions of a councillor husband or friend to warlike activity owing to personalities flung across the floor of the House at his councillor consort or friend. But the ladies themselves are not wanting in martial spirit. When a councillor once indited a minute reflecting on their sex, they were not slow to retaliate with winged arrows of censure, which must almost have convinced their rash opponent that the age of the Amazons had returned.

CHAPTER XXXIII

PROJECTED REFORMS

AN oriental story goes that a king had a magnificent palace built for him. He invited all his courtiers and asked them whether any one of them could discover any defect in the mansion. They were profuse in their felicitations and declared that no human eye had ever fallen on such a stately and flawless edifice. A discordant note was, however, struck by a holy man who was present. 'Allow me to say, Your Majesty,' said he, 'that there is an aperture in this palace, which is a serious defect.' 'What balderdash is this!' exclaimed the monarch in a rage, 'I have not seen the tiniest hole anywhere.' 'Yes, Your Majesty,' replied the sage, 'there is a cavity through which *Azrael* (the Angel of Death) will find his way to this mansion. If you can manage to fill it in, do so. If not, of what use your mansion and your crown and your throne? This palace now appears to be as charming as paradise itself, but when the dark angel shows his face, it will be as dreadful and loathsome as hell.'

One is vividly reminded of this story when one regards the stately edifice of municipal government in Bombay. When the foundations of the structure were first laid in 1865, the Bench of Justices, the élite of Bombay, numbering over 500, were constituted a Municipal Corporation. The system broke down, as we have already seen. People were not satisfied with a nominated Corporation. There was not a trace in it of the representative element. The slogan of the reformers of the day was, no taxation without representation. The

foundations were, therefore, broadened in 1872 and the superstructure thoroughly overhauled. The new edifice looked more compact, though less ornate, and better suited to the requirements of the times than the original one. When the Governor of the day, Sir Philip Wodehouse, invited the courtiers of Bombay, the members of the Legislative Council, to the inaugural ceremony of the new edifice—the third reading of the Bill of 1872—was there no seer amongst them with a vision clearer than that of the rest to point his finger at the cavity through which the demon of discord, if not the angel of death, was likely to find his way to the mansion? There was one, the same J. K. Bythell, who had waged a crusade against the cotton duties on behalf of the Bombay Chamber of Commerce.

The most fatal, though veiled, defect in the hybrid measure before the Council did not escape his penetrating vision. Groaning under the burdens that had been imposed on them by the mismanagement of an autocratic Commissioner, the citizens of Bombay had asked that they should be allowed to manage their own affairs in future. The Bill proposed to give them what they sought; but was the proposal anything more than a pretence? Did not the Bill embody the seeds of fresh contention rather than provide a remedy for the defects of the old administration? To a casual observer it appeared that the Legislature had given the representatives of the city on the Corporation a form of government which ensured that the administration of the City should be carried out in the manner they considered most expedient and least likely to cause annoyance to the people. But what would one say, asked Bythell, when he saw that 'this elaborately elected Corporation was merely to vote supplies, and that its satellite, the Town Council, was merely to see that the money voted was

expended in the manner specified? And would not he be inclined to laugh and say the whole thing was incongruous, disjointed, and an absurdity, when he found that in place of the elected body of citizens being empowered by the Act to set to work and effectively organize all the municipal business, Government were to step in and appoint one of their officials with sole power to carry out all the provisions of the Act? Why in the name of goodness, he might well exclaim, was such a great fuss made about electing the Corporation and Town Council, if this was to be the end of it all? Why did not Government simply at once appoint their official and tell him to do the work, without going to all this trouble and expense? He was told that several provisions so bound the Commissioner down that he virtually could not move hand or foot without the sanction of the Corporation, but he did not believe in the theory that all the real power would rest with the Corporation and the Town Council. He gave a long statement of the powers that the Commissioner was allowed to exercise without any one having the right of appeal against him either to the Town Council or to the Corporation or to any other tribunal. Several of these powers have since been taken away from the Commissioner, but the absolute powers of granting, withholding and revoking licenses for various trades have remained intact till to-day. Bythell failed to realize how such powers could be granted to any man. The Commissioner was not bound to take evidence, as a magistrate would have been, before deciding the case. He might proceed *ex parte* or in any way he might deem most convenient, and he was to be the sole judge in the matter. There was to be a Corporation and there was to be a Town Council, but neither body was to have any power over the Commissioner in regard to

such an important matter as that. 'Government may appoint a man,' said the far-sighted critic, 'who has spent most of his Indian life in the mofussil, and such a man coming to Bombay is to be allowed to fix the localities in which certain trades should be conducted without even consulting the elected and nominated body, who are by a great stretch of imagination said to be his masters and controllers. It is indeed difficult to understand on what principle this wonderful bill has been constructed.'

The Council, however, turned a deaf ear to the gloomy forebodings of that prophet of ill. The 'cavity' remained. When the Act was revised in 1887, attempts were made to fill it in, and Lord Reay, who then presided over the inaugural ceremony, asked the wise men of the Council whether the measure they had evolved was not worthy of comparison with any advanced piece of legislation in Europe, and worthy of being laid at the feet of that great authority on local government legislation, Professor Gneist. Again there was a chorus of approval and thanksgiving. But on that occasion also there was one man—again a European, Forbes Adam—who struck a discordant note and pointed his finger at the original defect which lay hidden in the very keystone of the Act—the great central principle that the Corporation was the governing body. The idea of coördinate jurisdiction seemed to him to be fraught with chances of friction and irritation. It was an attempt to reconcile what was irreconcilable. 'It possesses,' he pointed out, 'the elements of unsettlement and feud. I firmly believe the Bill might throughout all its sections have emphasized and accentuated its central principle without running the slightest danger of fettering or interfering unduly with the Commissioner in carrying out the details of the executive work of the Municipality.'

LORD REAY

The Governor of Bombay, whose most notable piece of legislation was the City of Bombay Municipal Act of 1888.

The Council fought shy of this prophet also. Telang was the first to recoil from the suggestion to 'improve' the Commissioner out of the Municipal constitution altogether. Believing that that officer was 'under proper checks and safeguards,' he was opposed to any such scheme. If it was adopted, they would have to resort, he feared, to Executive Committees to which he had always objected. 'I am in favour of the preservation of the Municipal Commissioner,' he said, 'though I can quite see that the time may come when we shall take a further step in the direction of local self-government, and the Municipal Corporation will have to ask the Council of that day to concede the power of appointing him.'

Pherozeshah Mehta, who followed Telang, could see no flaw in the constitution. His eyes delighted to dwell on the charming landscape it presented. He had no hesitation in declaring that the Act was 'an eminently workable and practical measure,' and West too had no doubt about its success. In justification of the rôle of prophet which he had assumed, he quoted the following verses:

> 'There is a history in all men's lives,
> Figuring the nature of the times deceas'd;
> The which observed, a man may prophesy
> With a near aim, of the main chance of things.'

When even the ardent champions of reform like Mehta were thus captivated by the new constitution and desired nothing more, he was not prepared to go beyond the line of absolute safety. 'For, the Government at any rate, which ought to see clearly where it is going,' he observed, 'it is better to be just in the rear of public opinion rather than just in advance of it.'

Do we not hear the same argument urged, whenever there is an outcry for legislation for pressing social reforms? Have not some of the most barbaric customs

been thus perpetuated in India under the enlightened regime of the British? No wonder, the mid-Victorian constitution of the Bombay Municipality has dragged out its existence to the present day, despite the organic changes that have since taken place in the fabric of government all over the world. Even at the opening of the twentieth century when, as we have seen, there was an active movement in and outside the Corporation for the broadening of the franchise, no one appeared to realize the fundamental defects of the cumbrous official machinery established and maintained since the year 1865. What is stranger still, after the bitter experience of the caucus, when the incongruity and absurdity of a system under which a servant of the Corporation could be practically its master were brought home to the members of the Corporation, when for the time being it seemed quite possible for the Commissioner to have his own nominees elected to the Corporation and the Standing Committee, and to have civic honours, such as the office of President of the Corporation, distributed amongst them according to his sweet will and pleasure, no one raised an outcry against the system. Personal recriminations there were in plenty, but the vital defect in the system still escaped the public eye. So bewitched was Pherozeshah Mehta by the constitution, which he clasped to his bosom as his own offspring, that although he was the chief victim of the cabal, it never occurred to him that the root of the whole trouble lay in that peculiar constitution for which there was no parallel in the history of local legislation.

This will, perhaps, appear an over-bold statement. Let us, therefore, try to clarify the situation. What is this organ of local government, which has fascinated the legislators and members of the Corporation for half a century? Has it been tested and found successful in any

progressive city in the world? The Municipal Act has been based on the Municipal Corporation Act of England. Are its constitutional provisions modelled on the lines of the London constitution? Is there any Municipality in Great Britain that has adopted this constitution? Not one. The concentration of authority in the hands of one man, rather than of a whole body, is now greatly favoured in America. It fastens responsibility on that individual and does not admit of the blame for negligence being shifted. A single officer, alone answerable, and independent within the sphere of his own competence, is more likely to prove efficient than a committee whose members can transfer from one shoulder to another the burden of their responsibility and the blame for their joint misdeeds. But such an officer must be either elected, as in many parts of America, by the people themselves, or appointed by the central government responsible to the people, as in France. The Bombay system, however, stands by itself. Here the evils of centralization are accentuated by the fact that the central authority appointing the Commissioner is not responsible to the people. The appointment is still in the gift of the Governor in Council, although under the Reforms the portfolio of Local Self-Government has been transferred to a minister. Such an arrangement for the appointment of the chief executive officer, the peculiar constitution of the Government, the system of nomination of members by Government, which clings to the Municipal constitution, and the arrangements under which the chief executive officer can defy the local authority without the slightest fear of imperilling his prospects or pension in the service to which he belongs, differentiate the Bombay constitution from that of cities in countries like France, distinguished for their highly centralized form of local government and the great degree of dependence in which

local institutions are placed in regard to the central authority, namely the national government. Even such cities attuned to the most drastic forms of centralization would never agree to accept the Bombay constitution. Nowhere would a Municipal Commissioner appointed under provisions similar to those of the Municipal Act of Bombay be tolerated, whereas in countries like Great Britain and America such a constitution would be repudiated as being altogether irreconcilable with the elementary principles of local autonomy.

In 1872 this constitution might have been regarded as being the most convenient and workable in the conditions then prevailing in Bombay, but soon after the experiment was tried, the executive officers, if not the members of the Corporation, realized its defects. When Sir Charles Ollivant was placed on special duty to suggest amendments, he advocated a system of Executive Committees, so as to assimilate the English models with the constitution. His proposals were, however, tainted by an admixture of executive with bureaucratic bias. He knew he would have to work the new system himself and could not resist the temptation to make his labours lighter and his status higher by making the Commissioner the Chairman of such Committees. Thus, the new constitution offered was even less acceptable than the original, and in the struggle that ensued to resist the new-fangled scheme, the legislators of the day lost sight of the inherent defect in the old constitution.

What was the result? Those who have had the opportunity of watching the inner working of the Municipality will affirm that there never has been that mutual understanding and coöperation between the executive and the governing body, which is essential for the efficient administration of the affairs of the city. The floor

of the civic chamber served until recently as the arena of continuous conflicts between the popular party and the Government party, or between Pherozeshah's party and the caucus party, or between the independents and the Commissioner's party, as the belligerents from time to time were styled. With the entry of the Nationalists into the Corporation, we have now the Independents, or the Progressive Party, under whose wings the Commissioner is supposed to take shelter, pitted against the Nationalists. These party duels in the Bombay Corporation have to be distinguished from the conflict of parties in European municipalities. There, each party places before it the principles for which it stands and a programme of local activities to which it is committed. The executive stand scrupulously aloof. Here, parties have come to be formed primarily because of want of confidence in the Chief Executive officer. As the functions of local and central government shade and blend into one another, there were many occasions when the interests of Government clashed with those of the Corporation. The House often divided itself into two parties, the Government party and the popular party, but what was most surprising was that hostile parties were formed of the critics of the executive and their supporters. The Commissioner was regarded by some as a traitor in the camp. As he was a Government servant, his reports and recommendations were not free from the suspicion of a bias in favour of Government. That, however, was intelligible; but what was worse for him was that not being the Corporation's nominee and at the same time being the head of the executive, he found that he was, so to say, a barrier keeping the executive apart from the governing body. As the Commissioner looked upon himself as a coördinate authority with the Corporation, whether the Act contemplated such an arrangement or not, and often

carried out his wishes in the teeth of opposition of the Corporation, and as the executive officers were subordinate to him and were expected to owe allegiance to him, a highly anomalous situation was created. It seemed as if the interests of the executive were hostile to those of the Corporation. Instead of mutual understanding there was mutual distrust.

When the writer joined the Corporation in 1899 and applied himself to the study of the Municipal Act, the first question he asked himself was: 'What is this constitution under which the officers of the Corporation are distrusted as if they were the natural enemies of their masters? Why should they not be regarded as part and parcel of the governing body?' There was nothing in that constitution to link the legislative sphere of the municipal state with the executive sphere. If it was intended that the Commissioner should form such a link, the experience of the past had belied such expectations. Even that great Commissioner, W. L. Harvey, who commanded the esteem and affection of the Corporation of the day, failed to serve as a buckle uniting the executive part of the municipal machinery with the deliberative. Subsequent events to which we have referred widened the breach, and the same unsatisfactory state of affairs has continued down to the present day, the periods of warfare alternating with periods of peace according to the temperament of the leaders of the House and of the incumbents of the office of Commissioner for the time being.

After the last war, the greatest liberator of nations, ideals of liberty and democracy stirred the soul of the Indian community as much as that of other nations. The famous proclamation of 1917 pointed unmistakably to the goal of progressive realization of responsible government. The Bombay Corporation then seemed to

have awakened to the axiomatic principle of local self-government that the supreme governing body should control the executive. But so long as the head of the executive was the nominee of Government and enjoyed independent powers, freedom in local government was not possible. On 21st July 1919, the Corporation referred to the Election Committee the question of obtaining for the Corporation the power to appoint the Municipal Commissioner and other officers whose salaries amounted to Rs. 500 or over. The Committee's report favoured the proposal to vest in the Corporation the power to appoint the other officers, but as regards the appointment of the Commissioner its laconic verdict was: 'the Act need not be amended at present.' The Corporation, however, adopted a resolution asking Government to undertake legislation for vesting the power in the Corporation.

The President accordingly addressed a letter to Government, on 23rd August 1920. To this a very tactful reply was sent by Government. They first informed the Corporation that they had decided to postpone the consideration of the question till the introduction of the Reforms and subsequently requested that they might be informed of the reasons for demanding such a change in the constitution. Probably, knowing the procedure of the Corporation, they hoped that by that further reference they were putting off the evil day for some years at least. If so, they were not mistaken. The Corporation appointed a Committee to submit a draft reply to Government setting forth the reasons why they should be given powers to appoint their chief officer. The Committee took three years to submit its report and the Corporation sent a reply to Government in terms of the report on 15th May 1924. In this reply they submitted that the continuance in the hands of

Government of the power to appoint the Commissioner was not in consonance with the spirit of the times, that the arrangement led to friction between the governing body and the chief executive officer and that by obtaining the power to appoint that officer the Corporation would have effective control, not only over him but over the whole executive. The proposal was, however, rejected by the Legislative Council.

A curious feature of the debate that took place in the Corporation was that some members, who were at one time anxious to secure for the Corporation the power to appoint their chief executive officer, voted against the proposal. They made no secret of the fact that they had changed their opinion in the light of the experience gained during the interval of the sectarian spirit which had influenced the decisions of the Corporation in regard to the selection of officers whom that body had the right to appoint. It was a deplorable confession of the tendency of certain sections of the Corporation to succumb to communal or party considerations, but whether such lapses on the part of some members of a growing self-governing institution constituted a valid reason for depriving the whole body of much-coveted powers of responsible government is a question which needs to be considered dispassionately, irrespective of the failings of individual members. The remedy for misuse of authority lies not in retrogression and the ruin of the constitution, but in the reform of the personnel of the governing body. No self-governing institution in the world was immune from the danger of jobbery and nepotism in the early stages of its evolution. Even now, not even advanced institutions can claim immunity from this danger, but the reason why such institutions have attained the existing state of perfection is that instead of committing suicide

they manfully faced the danger and shouldered the responsibility.

Another important reform in the constitution which the Corporation have urged upon Government is the institution of Special Committees for administrative and executive work. We have already noticed incidentally the dilatory methods of Committees of the Corporation. For years it was the practice to refer individual cases to separate committees. In consequence there was always on the outstanding list a multiplicity of cognate cases referred to separate committees, whereas if they had been committed, according to subject-matter, to special committees appointed to deal with such cases, they would have been disposed of with greater facility and promptitude. For instance, there were more than a hundred committees on the list in the year 1907–08. In all 169 meetings were held by some of these Committees and their sub-committees. This involved a considerable sacrifice of time and labour on the part of the members, yet the results were unsatisfactory, inasmuch as the work of the Committees under such a system could not be systematized and coördinated. A Committee was, therefore, appointed on the 8th February 1909, to consider the desirability of appointing permanent Committees 'to deal with questions which had to be referred to Committees.'

It would not have been legal to appoint 'Permanent Committees.' The intention, however, was to have Special Committees for the consideration of specific subjects to whom specific cases falling under the different groups of subjects could be referred as occasion arose. The legality of such a procedure was questioned, but the Municipal Solicitors advised that it was competent to the Corporation to appoint Committees for considering special subjects at the commencement of every year

or triennium and that there was no necessity for the Corporation to wait, as suggested by some members, until specific cases arose. A report was thereupon drafted, suggesting the amalgamation of the Committees that then existed under certain groups, but Pherozeshah Mehta was not in favour of the innovation. He had heard during his youth of reports of scandalous mismanagement of local affairs by the vestries and other executive bodies in England during the early years of the nineteenth century. 'Select vestries are Select Companies of rogues,' said one critic—a verdict which is, say Sydney and Beatrice Webb, after a dispassionate enquiry after a lapse of more than a hundred years, 'undoubtedly true of the majority of these close bodies.'[1] They were made up of venal, corrupt and incompetent men and were a 'focus of jobbing.' They were recruited by co-option, and as like attracts like they came to be composed more and more of the less scrupulous. 'As the old ones drop off,' remarked Defoe in 1714, 'they are sure to choose none in their room but those whom they have marked for their purpose beforehand; so rogue succeeds rogue, and the same scene of villany is still carried on, to the terror of the poor parishioners.'[2] Another eminent author, Edmund Burke, whose works were read with great avidity by the leaders of political thought in India during the latter half of the nineteenth century, said in his Parliamentary History in 1780, that 'the Justices of Middlesex were generally the scum of the earth—carpenters, brick-makers, and shoe-makers; some of whom were notoriously men of such infamous characters that they were unworthy of any employ whatever, and others so ignorant that they could scarcely write their

[1] *English Local Government.*

[2] *Parochial tyranny, or the House-keeper's complaint against the Insupportable Exaction and Partial Assessment of Select Vestries, etc., by Andrew Moreton* (*i.e.*, Daniel Defoe).

own names.' The prejudices thus imbibed by Pherozeshah Mehta in his youth against the system of committee management stood in the way of reform of the committee system of the Bombay Corporation until the last day of his life. He declined to encourage any innovations which might expose the administration of the Corporation to similar imputations of jobbery and corruption.

Mainly owing to Pherozeshah's opposition, the Committee appointed in 1908 could make no report until the year 1917. Even then the views of the majority of the members were influenced by the pronounced views he had held, so that the Committee reported that they were of opinion that it was not necessary to make radical changes in the committee system of the Corporation. The principle of referring cognate cases to one and the same Committee had already been followed and had resulted in the reduction in the number of Committees from more than a hundred to about thirty-five, and the Committee recommended the extension of the principle. A large number of members were not, however, satisfied with this report, and the Hon'ble Mr. (now Sir) Phiroze C. Sethna gave a notice of motion recommending the appointment of special Committees for special subjects and the abolition of the prevailing system. The adoption of this proposal was likely to have a directly wholesome effect on the executive work of the Municipality. The Municipal Commissioner, Mr. Monie, therefore considered it advisable to place his views before the Corporation before they dealt with the proposition. He pointed out that the scheme proposed had already been tried in Calcutta and was found to work satisfactorily. Special Committees gradually became trained and expert in the disposal of the particular class of business with which they dealt, whereas Committees appointed *ad hoc* were necessarily deprived of that advantage. He strongly advocated

the association of the members of the Corporation more closely with the executive work of the Municipality than was the case. This report had the desired effect and the Committee that considered the question *de novo* drew up a report in October 1920, recommending a radical revision of the committee system on the lines suggested. A few members, however, who had from the beginning set their face against the innovation, were not yet convinced of the advantages of the proposed scheme.

As the Deputy Commissioner, Mr. R. P. Masani, had then applied for leave to go to England, the Committee asked him to make enquiries while in England, and report what system of committee-work obtained in the London County Council and other important Municipalities in England, with special reference to their constitution. In a report which he submitted in December 1921, he pointed out that the practice of appointing Special Committees was universal in England and Scotland, and that in many places executive functions were delegated to such Committees. Until the year 1913 even the London County Council had been very jealous of its authority and delegated its powers to Committees to a very limited extent only. The result was that a good deal of the time of the Council was taken up by details of administration which might well have been delegated to Committees. It was recognized that a resolute but circumspect measure of delegation of executive powers to Committees was the soundest and most effective remedy for that defect, and the Council's procedure was reformed on the line of further delegation of powers to Committees and the reservation to the Council of the decision of all matters of principle including any system of delegation of powers to sub-committees, maintenance of financial control, and adequate provision for enabling minorities to bring questions before

the Council for decision. The report further showed that the new system appeared to work well and that special enquiries made of Heads of Departments in London and other places had elicited the fact that the Municipal executive in no way felt hampered or embarrassed in the discharge of their duties owing to the delegation of powers to Committees.

Thus fortified with the experience of English Municipalities the Committee of the Corporation at last recommended, in October 1922, that Special Committees should be appointed and that all ordinary business should be considered by the appropriate Committees before it was placed before the Corporation. The report was adopted and Government were asked to undertake legislation for the amendment of the Municipal Act so as to admit of the new system being introduced. A Bill to amend the Act accordingly is now before the Council, and if passed it will enable the Corporation to identify themselves more closely than before with the Municipal administration of the City.[1] Heretofore they have remained content with the power of criticism and direction. The Special Committees will, if they are imbued with the spirit of genuine civic service, inaugurate an era of real administrative and constructive work. They will be the cabinets of the Corporation, so to speak, hyphens that will join, links that will connect the executive with the deliberate branches of the Municipal organization of the City.

Other administrative changes have been suggested by the Retrenchment Adviser appointed by the Corporation in the year 1924. He has advocated the adoption of the English system of Executive Committees 'in its entirety' and has suggested the division of the superior staff into

[1] Sections 38A and 38B providing for the appointment of Special Committes have since been inserted in the Act by Bom. I of 1925.

two grades (1) administrative, and (2) executive. In the administrative grade he places four officers besides the Commissioner, namely the Deputy Municipal Commissioner, the Chief Engineer, the Health Officer and the Controller of Accounts. He would relieve these officers of purely executive duties and entrust them with the supervision of the Departments assigned to them and he would have all of them designated Deputy Municipal Commissioners so as to admit of the duties of the Commissioner being delegated to them. In a report which Mr. Masani was asked by the Retrenchment Committee to make showing how the Reforms proposed by the Rentrenchment Adviser might be brought into operation, he points out that if the proposal for the adoption of the system of Executive Committees according to the English model is accepted, the statutory office of the Municipal Commissioner would be incongruous and superfluous. That office would have to be abolished or converted into that of a Town Clerk, as in Great Britain, or a City Manager, as in America, as might be considered desirable in the light of the experience gained during the period of transition suggested. It would be still more illogical to appoint four Deputies when, as the natural corollary to the proposed reforms, the heads of departments would have to work directly under the control of the Executive Committees. They would all be like the additional and solely ornamental wheels introduced into the clocks of the middle ages, which prevented the time being marked accurately, each additional wheel being a source of friction and imperfection. These are the problems which the Corporation and the Legislature will have to solve at an early date to bring the Municipal organization of Bombay into line with the progressive Municipalities of the world.

CHAPTER XXXIV

EXPANSION OF THE SPHERE OF INFLUENCE

MORE important than the question of the constitution of a self-governing institution is the question of the scope of its operations and the sphere of its influence. It is, however, a peculiar feature of the history of Local Self-Government in Bombay that the attention of the reformers has been confined for the last fifty years, mainly, if not solely, to the mechanism of Government. Many a battle has been fought for every inch of advance on the constitutional soil, but scarcely any expedition has been launched for the extension of dominion or for the expansion of the sphere of influence of the Corporation. We have noticed in the foregoing chapter the programme of constitutional advance outlined for the near future, but we have heard little of schemes for opening up fresh avenues of municipal activities. It yet remains to be realized that the Corporation of to-day, although a live and virile body, is still but an imperfectly developed organism and that its domain of action and usefulness has been unduly circumscribed.

To realize how backward the city is in this respect one has only to compare her conception of city government with that of European and American towns. Besides the usual functions taken upon themselves by the Indian Municipalities, such as sanitation, means of communication, water supply, drainage, the Continental Municipalities hold themselves responsible for the education of the population, juvenile as well as adult, for the adaptation of the training of the young to the necessities of gaining a livelihood, for the provision of libraries, museums,

art galleries, parks, playing grounds and other means of instruction, amusement and recreation, for the health of families, for the care of infants and mothers, for poor relief and for the moral interests of all, for the protection of poor children, not forgetting the unfortunate children of illegitimate birth, for the promotion of industrial and commercial well-being and for the supply of communal services and facilities, such as house registries, labour registries, legal advice and information agencies, house building, unemployment insurance schemes, fire insurance and the management of local public utilities. All or most of these activities fall within the sphere of the normal work of those municipalities.

What a wide scope there is in Bombay for the extension of municipal activities in these directions! But since the passing of the Act of 1888, little attention has been paid to the possibilities of thus increasing the usefulness of the Corporation. While the scope of municipal work is being widened every year in progressive cities, the Bombay Municipality has practically remained stationary ; nay, even within the limited sphere of its assumed obligations and operations a good deal remains to be accomplished. It is the pride of the city that for more than half a century she has been acclaimed with one voice as the standard-bearer of civic progress in India and that her municipal constitution as well as her administration is held up as a model. From time to time expert critics and Government authorities, from the head of the Government downwards, have expressed their unstinted admiration for the manner in which the representatives of the citizens of Bombay have endeavoured to insure the success and progress of the Municipality.

There is no doubt that within the narrow sphere of usefulness opened up for them, the citizens of Bombay have accomplished much beneficial work. They have

thereby enhanced the reputation of the city and of the Corporation and striven to justify the motto which emblazens the city's standard—*urbs prima in Indis*. Such a distinction has not been attained without sterling self-sacrifice and devotion on the part of an illustrious roll of stalwarts aided by able executive officers. For years the beneficent forces of civic patriotism have centred in the Corporation, gathered strength from year to year and yielded a splendid harvest. Defects and drawbacks there were and there are; friction and trouble also arose and arise, mainly, as we have seen, because of the constitutional antithesis between the governing body and the executive, accentuated by the appointment of a Government officer as the chief executive officer of the Municipality; but such troubles and drawbacks must be regarded as matters of natural evolution and of slight concern as compared with the marked progress made in urban government and substantial gains realized. Thanks to the concentrated ability and energy of the foremost citizens of Bombay who were attracted to the civic parliament and also to the ability and integrity of the Government officers, deputed to the municipal service, on whom devolved the real work, the hard, dry, administrative and executive functions of the Municipality, local self-government in Bombay, in spite of its defects, has been a success.

It now remains for the present generation to play its part. The first question that arrests the thought of all lovers of civic reform is: Will the cosmopolitan character and historic unity of the city be preserved, the wealth of traditions of the Corporation be retained and the administrative efficiency maintained under the amended constitution of 1922? The governing authority elected under the enlarged franchise is a body more diverse in composition, in experience, in aspirations and in outlook

than the previous body constituted on the old select and oligarchic basis of franchise. When the semi-democratic franchise was substituted for a privileged franchise, there were not a few pessimists who predicted that the system of government set up by the latest enactment would not work well. They apprehended that members of an inferior status in life would storm the civic chamber and turn it into a cock-pit of personal rivalries and communal feuds and that the undisciplined hot-heads amongst the non-co-operators and expert gladiators among the co-operators would vie with one another in making the life of the executive miserable and preclude all possibility of solid work being accomplished. Those, however, who were conversant with the inner life of the Corporation had no misgivings on the subject. They knew that a change in the constitution was long overdue and that an infusion of new blood was necessary to re-vivify the old body if it was to be saved from the peril of atrophy insidiously brought on by self-complacency. We may now, after a little experience of the new regime, attempt to estimate the influence of the new constitution on the general administration and procedure of the governing body. It has now recruited new and vigorous democratic elements from every ward of the city and to that extent it has unquestionably been democratized. Although we may refuse to accept the new constitution as truly democratic, there is no doubt that it represents a very great step forward towards that goal. So much for the composition of the governing body ; what about its business capacity and the dividends for the citizen shareholders in the great joint-stock concern ?

After the election it seemed for a while that the gloomy forebodings of the pessimists were not far wrong. A very formidable section of the new recruits belonged

to the National Party in politics, and the first disconcerting step taken by it was to form the National Municipal Party. Heretofore, a sharp distinction had been drawn between civics and politics by leaders of the Corporation such as Pherozeshah Mehta. Had that departed hero of the Corporation cared to attempt it, he might have in those days of hero-worship turned that body into an organ of the Indian National Congress with which he had identified himself throughout his life. But although he was the leading exponent of the political views and aspirations of the people, in the council chamber he studiously eschewed politics and never allowed political partisanship to split the Corporation into factions. The National Municipal Party, however, declined to respect such traditions of the House as sacrosanct. Civics, they maintained, could not be dissociated altogether from politics and the municipal executive and the public wondered whither the municipal bark would be steered under the direction of the new pilots. The ship is still on the high seas and it is not necessary for our present purpose to speculate what its course will be and whither it will be wafted. One thing, however, is certain. The steering may have been somewhat erratic during the past two years, but the experience gained during this brief period gives hopes of skilful pilotage. At any rate, it affords no ground for portents of shipwreck. The new element in the Corporation has shown during this short period that its conception of civic duty is not clouded, though somewhat coloured, by politics and that it is as keen as were the elements it has displaced on maintaining and enhancing the reputation for civic sanity which has been bequeathed to Bombay.

It is true that the composition of the Corporation does not now represent the cream of Bombay society, but good government is not the monopoly of landlords

and capitalists. While it is true that the wealthy and cultured classes which constituted the bulk of the electorate in the past gave to the Corporation a large number of members of sterling worth imbued with a high sense of public duty, we cannot ignore the fact that they were not so intimately in touch with the people as the representatives returned by the new electorate are, councillors who live or who have their friends and relations living in poor localities and who, therefore, realize the needs of the backward classes better and strive with greater persistency and vigour for improvements in various directions. At times their party politics have befogged their vision of municipal problems, but there is no doubt that as a general rule the party distinction tends to disappear in the every-day work of the Corporation, that the administration has benefited and that the Corporation's grip over the executive has been strengthened by the association of a large number of representatives of the humbler classes in the work of civic government.

The most valued and lasting service rendered by the new recruits is the new impulse they have given to civic life. It seems a paradox, but it is none the less true, that the Bombay Presidency, the home of some of the most brilliant politicians of India, was until recently the least politically-minded province in the country. In civics, however, it achieved, and Bombay City in particular, a reputation which provoked the envy of sister Presidencies. The enlightened sense of civic obligations on the part of the citizens of Bombay, European and Indian, made the city a stronghold of local self-government in India. But after the strenuous struggles of 1872 and 1887 for reform, the interest taken by the public of Bombay in local government gradually and imperceptibly waned. The presence of several stalwarts in the Corpo-

ration lulled them into a sense of security. There were occasional outbursts against the inefficiency and corruption of the executive, spasmodic groans, at budget times, of excessive burden of taxation, and ephemeral spurts of activity at election times; but there was nothing like sustained intelligent interest in local politics, nothing like vigilant and watchful criticism of the municipal government of the city. People do not endure misgovernment if they realize it. They do not realize it, if they are long accustomed to it and are left to themselves and so long as they remain inert there is no hope for real reform; the best of Charters are mere scraps of paper. The propelling power must come from below, but there was no sign of it before the entry of the National party in the municipal arena. With its advent, however, public interest has been quickened wonderfully. This revival of interest is reflected in the mass of letters and petitions received every month by the Corporation, in the surging crowds of spectators in the visitors' gallery, in the comments in the public press and in the public meetings held to criticize the proceedings of the Corporation. But it is not enough that the citizens should be wakeful and watchful. It is not enough that they should come out in thousands and march under the standard of their leaders in imposing processions to the Municipal Hall to demonstrate their sentiments and wishes. To be a real force in Local Government public interest in civic affairs must be intelligent and public opinion fair and constructive.

The first essential of democratic government, whether local or national, the first requisite of effectual administration in civics as well as in politics, is intelligent citizenship. The masses to whom a democratic constitution extends the franchise cannot be expected to register their minds at the polls unless they have minds

to register. If they remain ignorant, a prey to prejudice, which is no better than apathy, if only a very small fraction of society takes an interest in the conduct of public affairs, if even a large majority of educated citizens remains entirely passive and cares not to whose hands the handling of the corporate affairs of the city is entrusted, a democratic constitution lacks *ab initio* the element of popular consent in government which is the first essential of democracy. The standing obstacle to the attainment of the ideals of democracy in India as elsewhere is mass ignorance, and the first most useful task to which the Municipal reformers of to-day have doggedly to apply themselves is mass education, not merely the opening of new schools, not merely the introduction of free and compulsory education, but also the widening of the outlook of the vast uncultured adult population of the city. Then only can the franchise be extended with reasonable prospects of success lower and lower down the social scale until it practically embraces the entire community. Then only may we hope to reclaim the public life of the people from those appalling and ruinous sectarian jealousies and hostilities which have disfigured the record of social and political progress of the country and which, it must be regretfully admitted, have been, under the democratized constitution and composition of the Corporation, more prominent than ever before in the Bombay Municipality as in other self-governing institutions and Legislative Councils of the country. Then only will the corporate life of the people pulsate with civic and patriotic ideals worthy of a nation claiming the privilege of unalloyed self-government.

At present the new wine of representative government passed into the old bottles produces strange ferments in small, though by no means insignificant,

sections. The bulk of the population remains unconcerned. That, however, is a feature by no means peculiar to the progress of the people of India along the path of self-government. At certain periods in their history the people of Europe have gone through the same stage of evolution and the most typical illustration is that of Germany, which Michelet used to describe as the India of Europe, implying thereby that the German people as a whole were like the Indians so absorbed in metaphysical musings and mystical speculations as to be only faintly interested in political aspirations or problems of government. A nation of dreamers sub-divided into a number of petty principalities, as India's population is divided in castes and creeds, hardly conscious of any common national feeling, the Germans towards the middle of the nineteenth century stood politically in much the same position as Indians did towards the closing years of that century and even later. But in the span of a single generation, a disjointed, dreamy and docile population was converted into a united, politically-minded and warlike nation glowing with the spirit of patriotism and attachment to the State as the source of all authority and tranquillity. This transformation was the result of consistent and catholic work for the promotion of education among the people, and herein lies a moral for those who deplore the low temperature of public emotions of the inert masses of the Indian population. If they want to stir them to their own spirit of national and patriotic fervour, the course which lies before them is obvious.

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